

No. 10594

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United States  
Circuit Court of Appeals

For the Ninth Circuit. 5

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WESTERN MESA OIL CORPORATION and EL SEGUNDO OIL COMPANY,

Appellants,

vs.

EDLOU COMPANY, et al., Landowners in El Segundo Community Lease No. Four-A; EDLOU COMPANY, et al., Landowners in El Segundo Community Lease No. Two-B; A. A. McCRAY, Trustee, for holders of overriding royalties in El Segundo Community Lease No. Four-A; A. A. McCRAY, Trustee for holders of overriding royalties in El Segundo Community Lease No. Two-B; A. A. McCRAY, WM. H. RAMSAUR and F. R. C. FENTON,

Appellees.

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Transcript of Record

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Upon Appeal from the District Court of the United States  
for the Southern District of California,  
Central Division

FILED

DEC 10 1943



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Index	Page
Certificate of Clerk to Transcript of Record on Appeal . . . . .	153
Certificate on Review of Order Fixing Status of Claims of Landowners' Royalties from El Segundo Block 31 Community Oil and Gas Lease, Referee's . . . . .	42
Certificate on Review, Referee's . . . . .	48
Cost Bond on Appeal . . . . .	135
Debtor's Petition in Proceedings Under Chapter XI of the Bankruptcy Act . . . . .	2
Schedule A . . . . .	12
Schedule B . . . . .	20
Statement of Affairs . . . . .	31
Designation of Record on Appeal (DC) . . . . .	143
Directions to Clerk re Notification of Filing of Notice of Appeal . . . . .	139
Findings of Fact, Conclusions of Law and Order Confirming Revised Plan of Arrangement . . . . .	94
Findings of Fact and Conclusions of Law as to the Proper Status of Claims of Landowners' Royalties from:	
El Segundo Block 31 Community Oil and Gas Lease . . . . .	72
Sovereign Nos. 2 and 4 Wells in the El Segundo District . . . . .	68

Index	Page
Memorandum Opinion and Order .....	131
Names and Addresses of Attorneys .....	1
Notice of Appeal .....	133
Opinion and Order, Memorandum .....	131
Order Appointing New Receiver .....	40
Order Extending Time to Docket Appeal ..	149, 151
Order Granting Petition for Leave to Expend Funds for the Benefit of the Estate.....	115
Order to Show Cause:	
Dated July 8, 1942 .....	113
Dated December 10, 1942 .....	67
Petition for Determination of Rights and Status of Holders of Landowners' Royalties .	51
Exhibit A—List of Holders of Landowners' Royalties .....	55
Petition for Leave to Expend Funds for the Benefit of the Estate .....	105
Petition for Review of Referee's Order re El Segundo Block 31 Community Oil and Gas Lease .....	125
Petition for Review of Referee's Order re Sov- ereign Nos. 2 and 4 Wells in El Segundo District .....	118

Index	Page
Petition in Proceedings Under Chapter XI of the Bankruptcy Act, Debtor's .....	2
Schedule A .....	12
Schedule B .....	20
Statement of Affairs .....	31
Proof of Claim of A. A. McCray, Trustee, for Holders of Overriding Royalties in El Se- gundo Community Lease:	
No. Four-A .....	226
No. Two-B .....	231
Proof of Claim of A. A. McCray, Wm. H. Ram- saur and F. R. C. Fenton .....	223
Proof of Claim of Edlou Company, et al, Land- owners in El Segundo Community Lease:	
No. Four-A .....	235
No. Two-B .....	239
Proposed Amendments to Findings of Fact....	100
Referee's Certificate on Review .....	48
Referee's Certificate on Review of Order Fix- ing Status of Claims of Landowners' Royal- ties from El Segundo Block 31 Community Oil and Gas Lease .....	42
Revised Plan of Arrangement .....	77
Statement of Points on Appeal (DC) .....	140

Index	Page
Statement of Points Upon Which Appellants Intend to Rely on Appeal (CCA) . . . . .	244
Stipulation and Order re Record on Appeal . . .	152
Transcript of Hearing on Order to Show Case on Holders of Landowners' Royalties . . . . .	156
Exhibit for Landowners:	
1—Judgment in Cause No. 429,491 in the Superior Court of the State of California in and for the County of Los Angeles . . . . .	169
Exhibits for Receiver:	
1—Statement of Unpaid Royalties Sovereign Wells, El Segundo . . . . .	158
3—Receipt by Mr. McCray of Cashier's Checks for Landowners' Royalties on Well No. 1, June 17, 1942 . . . . .	166
Witnesses:	
McCray, Allan A.	
—direct . . . . .	209
—cross . . . . .	215
Ramsaur, Wm. H.	
—direct . . . . .	203
—cross . . . . .	207
Taylor, Martha L.	
—direct . . . . .	157
—cross (Mr. Welch) . . . . .	165, 179
—cross (Mr. Bowker) . . . . .	167



## NAMES AND ADDRESSES OF ATTORNEYS

For Appellants:

R. DECHTER,

633-637 Subway Terminal Bldg.

417 S. Hill St.

Los Angeles, Calif.

For Appellees:

H. L. WELCH,

1114 Quinby Bldg.

Los Angeles, Calif.

MARTIN & BOWKER,

9945 Commerce Ave.

Tujunga, Calif.

ALLAN A. McCRAY,

C/o Britton Bowker

9945 Commerce Ave.

Tujunga, Calif [1\*]

In the District Court of the United States Southern  
District of California Central Division

# 40852-B

In the Matter of

SOVEREIGN OIL CORPORATION, a corporation  
Debtor

In Proceedings for Arrangement  
Chapter XI

DEBTOR'S ORIGINAL PETITION IN PRO-  
CEEDINGS UNDER CHAPTER XI OF  
THE BANKRUPTCY ACT

To the Honorable the Judges of the District Court  
of the United States for the Southern District  
of California, Central Division:

The petition of Sovereign Oil Corporation, a  
corporation, respectfully represents:

1. The above named Debtor is a Nevada corpora-  
tion and now has and for the longer portion of the  
six months immediately preceding the filing of this  
petition has had its office and principal place of  
business at Los Angeles, in the County of Los An-  
geles, State of California, Southern District of  
California, and its present address is Suite 704  
Park Central Building, 412 West Sixth Street.

2. The business of said corporation is the drilling  
and operation of oil wells and the marketing of  
products produced therefrom. The debtor is the  
owner of and is operating four oil wells upon real  
property situate in the County of Los Angeles,

State of California, all as set forth in the schedules attached hereto and made a part hereof. The debtor is using the said premises for this purpose under and pursuant to oil and gas leases between the owners of the premises as Lessor and the debtor as Lessee, or as holder of the Lessee's interest, all as set forth in said schedules attached hereto and made a part hereof. Under said leases a landowner's royalty as to the lease covering Community Well No. 1 of 16-2/3% is payable to the lessors, and as to the other three wells all as set [2] forth in said schedules, a landowner's royalty of 18- 2/3% is payable to the lessors.

3. Under a permit granted by the Corporation Commissioner of the State of California, the Debtor has issued and sold participating royalty interest in the gross proceeds from the production of the well covering percentages of said production, as follows: as to Community Well No. 1, 25½%, Community Well No. 2, 30%, Community Well No. 3, 34.75%, and Community Well No. 4, 29.75%.

4. The officers of said corporation are as follows:

D. M. Smith, President

J. R. McKinney, Vice President and Secretary

Martha L. Taylor, Assistant Secretary and Treasurer

5. Attached hereto as Exhibit "A" is a certified copy of a resolution of the board of directors of the above named debtor corporation authorizing the commencement and prosecution of the above entitled proceedings, which resolution was duly adopted at

a Special Meeting of said Board of Directors held June 18, 1942.

6. No Bankruptcy proceeding instituted by or against petition is now pending.

7. Petitioner is unable to pay its debts as they mature and proposes an arrangement with its unsecured creditors, as set forth in the proposed arrangement copy of which it attached hereto, marked Exhibit "B" and made a part hereof.

8. Annexed hereto, marked "Exhibit C" and hereby made a part hereof are the Schedules of the Debtor. The schedule hereto annexed marked "Schedule C" is verified by your petitioner's oath, contains a full and true statement of all its debts, insofar as it is possible to ascertain the names and places of residence of its creditors, and such further statements concerning said debts as are required by the provisions of the Acts of Congress relating to Bankruptcy. The schedule hereto annexed marked "Schedule D" is verified by your petitioner's oath, contains an accurate inventory of [3] all its property, real and personal, and such further statements concerning said property as are required by the provisions of said Act.

9. Annexed hereto, marked "Exhibit D" and hereby made a part hereof is a statement containing a full and true statement of all its executory contracts, as required by the provisions of said Act.

10. Annexed hereto, marked "Exhibit E". and hereby made a part hereof, and verified by your petitioner's oath, is a statement containing a full

and true statement of its affairs, as required by the provisions of said Act.

Wherefore, your petitioner prays that proceedings may be had upon this petition in accordance with the provisions of Chapter XI of the Acts of Congress relating to Bankruptcy, and further prays that a Receiver may be appointed of all of its assets and effects as provided for in the said proposed plan of arrangement.

Dated this 19th day of June, 1942.

SOVEREIGN OIL CORPORATION,  
TION,

A Corporation.

By J. R. McKINNIE

Vice-President.

GRAINGER AND HUNT.

By REUBEN G. HUNT,

Attorneys for Debtor. [4]

State of California

County of Los Angeles—ss

J. R. McKimmie, being first duly sworn, deposes and says:

That he is the Vice President of the Sovereign Oil Corporation, debtor named in the foregoing petition. That he is authorized to make this verification for and on behalf of said corporation. That he has read the foregoing Debtor's petition under Chapter XI of the Bankruptcy Act and knows the contents thereof and makes solemn oath that the statements contained therein are true according to the best of his knowledge, information and belief.

J. R. McKINNIE

Subscribed and sworn to before me this 19th day of June, 1942.

[Seal] ADELE O. CARVER

Notary Public in and for County of Los Angeles,  
State of California [5]

### CERTIFICATION

We, the undersigned, Vice-President, Secretary, and Assistant Secretary of Sovereign Oil Corporation, a corporation, do hereby certify that the following is a true and complete copy of a resolution duly adopted at a meeting of the Board of Directors of said corporation, duly called and held at the Main Office thereof at 412 West 6th Street, 704 Park Central Building, Los Angeles, California, on the 18th day of June, 1942, a quorum being present.

Dated: June 18th, 1942

[Seal] J. R. McKINNIE  
Vice-President

J. R. McKINNIE  
Secretary

M. L. TAYLOR  
Assistant Secretary

After discussion and upon motion being duly made, seconded and carried, it was

“Resolved: That the Vice-President of this corporation be and he is hereby authorized for and on behalf of the corporation to file and prosecute arrangement proceedings under Chapter XI of the

Bankruptcy Act and for this purpose to employ and pay counsel and to consent to or object to the appointment of a receiver, and to take all other steps that may be necessary to protect the interests of the corporation and its creditors and other parties in interest in connection with such proceedings and to submit any plan of arrangement to the creditors of the corporation and thereafter to submit any modified plan of arrangement to said creditors that may appear to him to be for the best interests of the corporation." [6]

EXHIBIT A  
ARRANGEMENT

The debtor proposes the following arrangement with its unsecured creditors:

(a) R. P. Cooney shall, subject to the Court's approval, be appointed Receiver of the assets and property of the Debtor with authority to conduct the business and operations of the corporation, including the operation of the oil wells now owned and operated by the debtor, and will conduct same in such manner as, in his discretion, will accomplish the best results for all interested parties, either in the nature of maintaining the production or increasing the same by remedial operations. Said R. P. Cooney shall act without compensation.

(b) From the gross proceeds derived from the production of said wells there shall be paid in the

## Exhibit A—(Continued)

order named the following charges, debts, and obligations of the corporation to the parties entitled thereto:

First: The landowners' royalties.

Second: The necessary operating expenses of the corporation.

Third: The actual necessary costs of administration of the Debtor's estate, exclusive of operating expenses, as fixed by the Court, including a reasonable compensation to the attorneys for Debtor.

Fourth: All claims having priority of payment pursuant to the provisions of Section 64 of the Bankruptcy Act in order of their priority.

Fifth: The amount necessary to be paid to creditors holding conditional sales contracts to pay off the amount of said contracts (the principal amount owing on such indebtedness is approximately \$165,000.00).

Sixth: The surplus remaining, after payment of the foregoing and after retaining \$1,000.00 as necessary operating capital, shall be used, 1st: To pay unsecured creditors the full amount of their claims allowed by the Court after such claims are filed herein. [7]

Such payments to such creditors shall be in the nature of pro rata dividends in accordance with the amounts of their claims, and monthly disbursements.

Seventh: After all of the foregoing debts, obligations and charges are paid, there shall be paid to the

Exhibit A—(Continued)

holders of participating royalty interests all accumulated credits due thereon by reason of non-payment at the times specified in their contracts.

Eighth: Upon payment of all of such sums, the arrangement proceeding shall thereupon be terminated, and the corporation shall then be entitled to manage its affairs in such manner as it may elect, consonant with the laws of the State of California, and of the United States, and with any laws pertaining to its right to operate and to do business.

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE

Vice-President [8]

## SUMMARY OF DEBTS AND ASSETS

(From the Statements of the Debtor in Schedules A and B)

		Dollars	Cents
			None
Schedule A....1—a	Wages .....		
Schedule A....1—b (1)	Taxes due United States ....		
Schedule A....1—b (2)	Taxes due States .....	3,516.11	
Schedule A....1—b (3)	Taxes due counties, dis- tricts and municipalities )		
Schedule A....1—c (1)	Debts due any person, in- cluding the United States, having priority by laws of the United States .....		None
Schedule A....1—c (2)	Rent having priority .....		None
Schedule A....2	Secured claims .....	165,382.48	
Schedule A....3	Unsecured claims .....	53,101.31	
Schedule A....4	Notes and bills which ought to be paid by other parties thereto .....		None
Schedule A....5	Accommodation paper .....		None
	Schedule A, total .....	221,999.90	
Schedule B....1	Real estate .....	145,000.00	
Schedule B....2—a	Cash on hand .....	100.00	
Schedule B....2—b	Negotiable and non-negoti- able instruments and se- curities .....	N1,000.00	
Schedule B....2—c	Stocks in trade .....	900.00	
Schedule B....2—d	Household goods .....	None	
Schedule B....2—e	Books, prints and pictures....	None	
Schedule B....2—f	Horses, cows and other animals .....	None	
Schedule B....2—g	Automobiles and other vehicles .....	None	
Schedule B....2—h	Farming stock and imple- ments .....	None	
Schedule B....1—i	Shipping and shares in vessels .....	None	

Summary of Debts and Assets—(Continued)

		Dollars	Cents
Schedule B....2—j	Machinery, fixtures, and tools Included in B—land .....		500.00
Schedule B....2—k	Patents, copyrights, and trade-marks .....		None
Schedule B....2—l	Other personal property .....		None
Schedule B....3—a	Debts due on open accounts .....		None
Schedule B....3—b	Policies of insurance .....		Nominal
Schedule B....3—c	Unliquidated claims .....		None
Schedule B....3—d	Deposits of money in banks and elsewhere .....		150.00
Schedule B....4	Property in reversion, re- mainder, expectancy or trust, etc. ....		None
Schedule B....5	Property claimed as ex- empt .....		(\$ None)
Schedule B....6	Books, deeds and papers ....		
	Schedule B, total.....		147,650.00

SOVEREIGN OIL CORPORATION,

J. R. McKINNIE, Petitioner.

[9]

SCHEDULE A STATEMENT OF ALL DEBTS OF  
BANKRUPT

SCHEDULE A-1

Statement of all creditors of whom priority is secured by the act

A.—Wages due workmen, servants, clerks, or traveling or city salesmen on salary or commission basis, whole or part time, whether or not selling exclusively for the bankrupt, to an amount not exceeding \$600 each, earned within three months before filing the petition.

Reference to Ledger or Voucher.—Names of Creditors.—Residences (if unknown, that fact must be stated).—When and where incurred or contracted—whether claim is contingent, unliquidated or disputed.—Nature and consideration of the debt: and whether incurred or contracted as partner or joint contractor and, if so, with whom.

	Amount due or Claimed	Dollars Cents
[Illegible] Payroll            None		None

B.—Taxes due and owing to—

(1) The United States		
(2) The State of.....		Unknown
(3) The county, district or municipality of—City of		
El Segunda—license tax or fee.....		
State of .....		100.00

Reference to Ledger or Voucher.—Names of Creditors.—Residences (if unknown, that fact must be stated).—When and where incurred or contracted—whether claim is contingent, unliquidated or disputed.—Nature and consideration of the debt: and whether incurred or contracted as partner or joint contractor and, if so, with whom.

Collector of Internal Revenue, Los Angeles, Calif.		
Soc. Sec. Tax .....		104.01
State of California, Unemployment Commission		
—2d, 3d, 4 1/4 1941 and 1st 1/4 of 1942.....		864.51
State of California—Mining Rights Tax.....		131.26
County of Los Angeles—Mining Rights Tax.....		918.89
County of Los Angeles—Personal property tax		1,082.44
Corporation Trust Co.—Reno, Nevada .....		200.00
Secretary of State of California—Resident		
Agent's fee .....		5.00
Division of Corporations—escrow fee .....		10.00

Schedule A-1—(Continued)

Amount due  
or Claimed  
Dollars Cents

C.—(1) Debts owing to any person, including the United States, who by the laws of the United States is entitled to priority.

Reference to Ledger or Voucher.—Names of Creditors.—Residences (if unknown, that fact must be stated).—When and where incurred or contracted.—Whether claim is contingent, unliquidated or disputed.—Nature and consideration of the debt: and whether incurred or contracted as partner or joint contractor and, if so, with whom.

Bank of America—Seventh and Spring, Los Angeles, Calif. Registrar's fees .....	100.00
--	--------

C.—(2) Rent owing to a landlord who is entitled to priority by the laws of the State of....., accrued within three months before filing the petition, for actual use and occupancy.

Reference to Ledger or Voucher.—Names of Creditors.—Residences (if unknown, that fact must be stated).—When and where incurred or contracted.—Whether claim is contingent, unliquidated or disputed.—Nature and consideration of the debt: and whether incurred or contracted as partner or joint contractor and, if so, with whom.

None .....	None
Total.....	
	3,516.11

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres.

Petitioner.

[10]

## SCHEDULE A-2

## Creditors Holding Securities

B.—Particulars of securities held, with dates of same, and when they were given, to be stated under the names of the several [Illegible] ors, and also particulars concerning each debt, as required by the Act of Congress relating to Bankruptcy, and whether contracted as partner or joint contractor with any other person, and if so, with whom.)

Reference to Ledger or Voucher.—Names of Creditors.—Residences (if unknown, that fact must be stated).—Description of Securities.—When and where debts were contracted, and nature and consideration thereof.—Whether claim is contingent, unliquidated or disputed.

	Value of Securities		Amount due or Claimed	
	Dollars	Cents	Dollars	Cents
R. P. Cooney, 406 No. Citrus, Los Angeles, Calif. ....			1,225.00	
(This creditor is secured in that he holds seller's interest in conditional sales contract covering sale of oil derrick to debtor—Original purchase price \$1750.00-)				
J. D. Bush, 5199 District Boulevard, Los Angeles, Cal. ....			2,650.00	
(This creditor is secured in that he holds legal title to two oil derricks sold to debtor on conditional sales contract. Original purchase price \$3400.00)				
Naitonal Supply Co., Torrance, California .....			153,023.18	
(This creditor is secured in that it is assignee of 53¼% of the gross production of oil and hydrocarbon substances produced from Community Well No. 1 in Block 31, El Segunda, Calif.; and is likewise secured in that it holds a chattel mortgage covering all boilers and drilling equipment of the debtor, and has legal title to 4 pumping units, 28000 2½" tubing, 28000 sucker rods, and miscellaneous fittings and connections sold to the debtor on conditional sales contract and holds 3% overriding royalty in Inca Oil well at Athens)				

## Schedule A-2—(Continued)

	Value of Securities		Amount due or Claimed	
	Dollars	Cents	Dollars	Cents
American Pipe & Steel Co., 230 Date Ave., Alhambra, California .....			8,484.	30
(This creditor is secured in that it holds a chattel mortgage on 8 1500 bbl. 3 ring bolted tanks and 2 750 bbl. 3 ring bolted tanks, 4 oil and gas separators, 4 steel stairways)				
Total.....			165,382.	48

## SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres.

Petitioner [11]

## SCHEDULE A-3

## Creditors whose Claims are Unsecured

(N. B.—When the name and residence (or either) of any drawer, maker, endorser, or holder of any bill or note, etc., are unknown, the fact must be stated, and also the name and residence of the last holder known to the debtor. The debt due to each creditor must be stated in full, and any claim by way of set-off stated in the schedule of property.)

Reference to Ledger or Voucher.—Names of Creditors.—Residences (if unknown, that fact must be stated).—Names and resi- contracted.—Whether claim is contingent, unliquidated or disputed.—Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, etc., and whether contracted as partner or joint contractor with any other person; and, if so, with whom.

Amount due  
or Claimed  
Dollars Cents

Advance Truck Co., 21740 Alameda St., Long Beach, Calif. ....	14,338.09
Axelson Mfg. Co. 6160 So. Boyle, Vernon, Calif.	80.89
American Boiler Works, 2344 Orange, Long Beach, Calif. ....	392.80
Bank of America, Main Office, Long Beach, Calif. ....	100.00

## Schedule A-3—(Continued)

	Amount due or Claimed Dollars Cents
Baash Ross Tool, 5512 Boyle Ave., Los Angeles, Calif. ....	739.83
Alexander Anderson, 2607 Pasadena Ave., Long Beach, Calif. ....	292.46
Blackwell & Sunde, 3135 Cherry Ave., Long Beach Calif. ....	1,683.02
Cyrus Bell, 714 W. Olympic Blvd., Los Angeles, Calif. ....	6,439.46
Calowell Construction Co., 1855 E. Wardlow Blvd., Long Beach, Calif.....	2,386.70
Corporation Trust Co., New York City, N. Y.....	200.00
Crail Brothers, 3333 Myrtle Ave., Long Beach, Calif. ....	3,174.23
J. H. Dastell, 3725 Subway Terminal Bldg., Los Angeles, Cal. ....	3,725.00
Gardiner Buol, First and Pine, Long Beach, Calif. ....	1,203.20
Geo. R. H. Goodner, Munsey Building, Washing- ton, D. C. ....	125.00
Halliburton Cementing Co., 1709 W. 8th St., Los Angeles, Cal. ....	1,655.84
Hillman-Kelly, 2439 Hunter St., Los Angeles, Calif. ....	277.64
Imperial Corporation, 412 W. 6th St., Los An- geles, Calif. ....	81.54
Lane Wells, 5810 So. Soto, Vernon, Calif.....	1,094.86
Lyons & Lyons, 639 So. Spring St., Los Angeles, Calif. ....	260.00
Modearis Supply Co., 8638 Otis Ave., Southgate, Calif. ....	135.02
MacClatchie Mfg. Co., 2120 No. Alameda, Compton, Cal. ....	168.02
Macco Construction Co., 815 No. Paramount Blvd., Clearwater, Calif. ....	814.21

## Schedule A-3—(Continued)

	Amount due or Claimed	
	Dollars	Cents
Midway Fishing Tool Co., 2998 Cherry Ave., Long Beach, Calif. ....	658.45	
Pico-Victoria, 4218 W. Pico, Los Angeles, Calif. ....	67.60	
Pacific Perforating Co., 1103 Border Ave., Tor- rance, Cal. ....	54.66	
Perkins Cementing Co., Petroleum Securities Bldg., Los Angeles, Calif. ....	3,952.35	
Petroleum Rectifying Co., 1390 E. Brunett, Long Beach, Cal. ....	362.86	
Petroleum Prod. Engineering, Long Beach, Cali- fornia ....	314.53	
Ritchie & Co., 2609 Cherry Ave., Long Beach, Calif. ....	150.50	
Schlumberger, Jergins Trustn Building, Long Beach, Calif. ....	1,438.01	
Signal Oil & Gas Co., 811 W. 7th St., Los An- geles, Calif. ....	273.17	
Mabel T. Smith, 490 Mark West Spring R., Santa Rosa, Calif. ....	754.20	
Standard Oil Co., 805 W. Olympic Blvd., Los Angeles, Calif. ....	200.00	
R. C. Smith, W. Compton Blvd., Compton, Calif. ....	2,754.46	
Stationers Corp., 525 So. Spring St., Los An- geles, Calif. ....	125.87	
State Compensation Insurance, State Bldg., Los Angeles, Cal. ....	76.47	
Tretolite Co. of California, 5317 Anaheim-Tele- graph Road, Los Angeles, Calif. ....	67.70	
O. P. Yowell, 714 W. Olympic Blvd., Los An- geles, Calif. ....	392.28	
W. O. Martin, 3900 Myrtle Ave., Long Beach, Calif. ....	1,810.39	

## Schedule A-3—(Continued)

	Amount due or Claimed Dollars Cents
M. Sanborn, c/o J. H. Dastell, 725 Subway Terminal Buildings, Los Angeles, Calif. (this person is assignee of J. H. Dasteel of the indebtedness owing by the debtor to said J. H. Dasteel)	
Park Central Building, 412 W. 6th St., Los Angeles, Calif. ....	280.00
Total.....	53,101.31

## SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres.

.....Petitioner [12]

## SCHEDULE A-4

Liabilities on Notes or Bills Discounted which ought to be Paid  
by the Drawers, Makers, Acceptors, or Indorsers

(N. B.—The dates of the notes or bills, and when due, with the names, residences, and the business or occupation of the drawers, makers, acceptors, or indorsers thereof, are to be set forth under the names of the holders. If the names of the holders are not known, the name of the last holder known to the debtor shall be stated, and his business and place of residence. The same particulars shall be stated as to notes or bills on which the debtor is liable as indorser.)

Reference to Ledger or Voucher.—Names of holders as far as known.—Residences (if unknown, that fact must be stated.)—Place where contracted.—Whether claim is disputed.—Nature and consideration of liability, whether same was contracted as partner or joint contractor, or with any other person; and, if so, with whom.

	Amount due or Claimed Dollars Cents
None .....	None
Total.....	None

## SOVEREIGN OIL CORPORATION

By J. R. McKinnie, Debtor

Petitioner [13]



## SCHEDULE B. STATEMENT OF ALL PROPERTY

## SCHEDULE B-1

## Real Estate

Location and Description of all Real Estate owned by Debtor, or held by him, whether under deed, lease or contract.—Incumbrances thereon, if any, and dates thereof.—Statement of particular relating thereto.	Estimated value of Debtor's Interest Dollars Cents
--	---

The debtor herein is the owner of the lessee's interest in and to a certain Oil and Gas Lease, executed on the 24th day of November, 1937, by and between F. R. C. Fenton and Dorothy S. Fenton, his wife, Ethelwyn Laurence, et al and the debtor covering real property situate in the County of Los Angeles, State of California, to-wit,

Lots 1, 5, 6, 9, 10, 13, 14, 15, 16 and 17 and 18 in Block 31, of the Townsite of El Segundo, as per Map in Book 18, page 69 of the Maps, Los Angeles, County

on which is situate Community Well No. 1

Value of said well, complete with derrick, tubing, pump, pump connections, pumping unit, tank and miscellaneous fittings and tools .....	65,000.00
--	-----------

The debtor herein is the owner of the Lessee's interest in and to a certain oil and gas lease, executed on or about the 14th day of April, 1938, by and between 18 lot owners and Elsie Oil Company, covering real property situate in the County of Los Angeles, State of California, to wit :

Lots 1 to 18 both inclusive, Block 32 as per Sheet No. 1, El Segundo, recorded in Map Book 18, page 69, Records of Los Angeles County

on which is situate Community Well No. 2

Value of said well, complete with derrick, tubing, pump, pump connections, pumping unit, tank and miscellaneous fittings and tools .....	30,000.00
--	-----------

Schedule B-1—(Continued)

Location and Description of all Real Estate owned by Debtor, or held by him, whether under deed, lease or contract.—Incumbrances thereon, if any, and dates thereof.—Statement of particulars relating thereto.	Estimated value of Debtor's Interest Dollars Cents
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The debtor is the owner of the Lessee's interest in and to a certain oil and gas lease, executed on the 13th day of May, 1937, by and btween J. F. Copinger and Henry Reineman, et al covering real property situate in the County of Los Angeles, State of California, to-wit:

Lots 11, 12, 13, 44, 45 and 46 of Block 123 of the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 22, pages 106 and 107 of Maps, Records of Los Angeles County

Value of said well, complete with derrick, pump, tubint, pump connections, pumping unit, tank and miscellaneous fittings and tools .....	20,000.00
--	-----------

The debtor is the owner of the Lessee's interest in and to a certain oil and gas lease, executed on or about May 23, 1938, by and between Elsie Oil Company and 73 property owners covering real property situate in the County of Los Angeles, State of California, to-wit:

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres.

.Petitioner [15]

Lots 1 to 37 both inclusive and Lots 39 and 40, Tract 3012, recorded in Map Book 29, Page 39, Records of Los Angeles County; and Lots 1 to 33, both inclusive, Tract 2028, recorded in Map Book 35, page 37, records of Los Angeles County; and Lot 79, Block 123, as per sheet No. 8, El Segundo, recorded in Map Book 22, pages 106 107 Records of Los Angeles County

Schedule B-1—(Continued)

Location and Description of all Real Estate owned by Debtor, or held by him, whether under deed, lease or contract.—Incumbrances thereon, if any, and dates thereof.—Statement of particulars relating thereto. Estimated value of Debtor's Interest Dollars Cents

Value of said well, complete with derrick, pump, tubing, pump connections, pumping unit, tank and miscellaneous fittings and tools ..... 13,000.00  
 30,000.00

Certain of the equipment on the foregoing leaseholds is incumbered as set forth in Schedule A-2 hereof

52,000.00  
 Total..... 145,000.00

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres. [16]

SCHEDULE B-2

Personal Property

	Dollars Cents
A.—Cash on hand .....	100.00
B.—Negotiable and non-negotiable instruments and securities of any description, including stocks in incorporated companies, interests in joint stock companies, and the like (each to be set out separately.)	
3% overriding royalty interest in Inca Oil Company well at Athens, Calif. (Assigned as security as set forth in Schedule A-2 hereof)....	1,000.00
C.—Stock in trade, in.....business of..... at,....., of the value of .....	
Approximately 1000 bbls. crude oil.....	900.00

Schedule B-2—(Continued)

	Dollars	Cents
D.—Household goods and furniture, household stores, wearing apparel and ornaments of the person		
None .....	None	
Total.....	2,000.00	

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-President

Petitioner. [17]

E.—Books, prints and Pictures		
None .....	None	
F.—Horses, Cows, Sheep and other animals (with number of each)		
None .....	None	
G.—Automobiles and other Vehicles		
None .....	None	
H.—Farming stock and Implements of Husbandry		
None .....	None	
Total.....	None	

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-President

Petitioner [18]

I.—Shipping and Shares in Vessels		
None .....	None	

Schedule B-2—(Continued)

Dollars Cents

J.—Machinery, fixtures, apparatus, and tools used in business, with the place where each is situated	
1	
Includes in Schedule B-2 and incumbered as set forth in Schedule A-2 hereof	
Office furniture, consisting of desks, chairs, safe etc. in debtor's office in Park Central Building	500.00
K.—Patents, Copyrights, and Trade-Marks	
None .....	None
L.—Goods or personal property of any other description, with the place where each is situated	
None .....	None
Total.....	500.00

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres.

Petitioner. [19]

SCHEDULE B-3

Choses in Action

Dollars Cents

A.—Debts Due Petitioner on Open Account as per records of debtor from sale of sale of oil	
<del>None</del> .....	<del>None</del>
B.—Policies of Insurance	
Various policies of fire, public liability, compensation and other protective policies .....	<del>Nominal</del>
C.—Unliquidated Claims of every nature, with their estimated value.	
None .....	<del>None</del>

Schedule B-3—(Continued)

		Dollars	Cents
D.—Deposits of Money in Banking Institutions and Elsewhere.			
<del>Bank of America</del>			
Union Bank and Trust Co., 8th and Hill Sts., Los Angeles, Calif. ....	Ap.	150	00
Total.....		150	00

SOEVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-President  
Petitioner. [20]

SCHEDULE B-4

Property in reversion, remainder or expectancy, including prop-  
erty held in trust for the Debtor or subject to any power  
or right to dispose of or to charge.

(N. B.—A particular description of each interest must be en-  
tered, with a statement of the location of the property, the  
names and description of the persons now enjoying the same,  
the value thereof, and from whom and in what manner debtor's  
interest in such property is or will be derived. If all or any of  
the debtor's property has been conveyed by deed of assignment,  
or otherwise, for the benefit of creditors, the date of such deed  
should be stated, the name and address of the person to whom  
the property was conveyed, the amount realized as the proceeds  
thereof, and the disposal of the same, as far as known to the  
debtor.)

General Interest	Particular Description	Estimated Value of Interest	
		Dollars	Cents
Interest in Land			
None .....		None	
Personal Property			
None.....	None.....		
Property in Money, Stock, Shares, Bonds, An- nuities, etc.			
None .....		None	
Rights and Powers, Legacies and Bequests			
Total.....			

## Schedule B-4—(Continued)

Property heretofore conveyed for benefit of creditors.

Amount realized as  
proceeds of prop-  
erty conveyed

Portion of debtor's property conveyed by deed of assignment, or otherwise, for the benefit of creditors; date of such deed, name and address of party to whom conveyed; amount realized therefrom, and disposal of same, as far as known to debtor.

## Attorney's Fees.

Sum or sums paid to counsel, and to whom, for services rendered or to be rendered in this bankruptcy.

Grainger and Hunt, 830 H. W. Hellman Building, Los Angeles, Calif.

On account of costs..... 60.00

Total.....

## SOVEREIGN OIL CORPORATION

J. R. McKINNIE, Petitioner [21]

## SCHEDULE B-5

Property claimed as exempt from the operation of the act of Congress relating to bankruptcy

(N. B.—Each item of property must be stated, with its valuation and, if any portion of it is real estate, its location, description and present use.)

Valuation  
Dollars Cents

Property claimed to be exempt by the laws of the United States, with reference to the statute creating the exemption

None ..... None

Schedule B-5—(Continued)

	Valuation
	Dollars    Cents
Property claimed to be exempt by State laws, with reference to the statute creating the exemption	
None .....	None
Total.....	

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres.

Petitioner. [22]

SCHEDULE B-6

Books, Papers Deeds and Writings relating to Debtor's  
Business and Estate

The following is a true list of all books, papers, deeds and writings relating to petitioner's trade, business, dealings, estate and effects, or any part thereof, which, at the date of this petition, are in petitioner's possession or under petitioner's custody and control, or which are in possession or custody of any person in trust for petitioner, or for petitioner's use, benefit, or advantage; and also of all others which have been heretofore, at any time, in petitioner's possession, or under petitioner's custody, or control, and which are now held by the parties whose names are hereinafter set forth, with the reason for their custody of the same.

Books	Dollars    Cents
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Ordinary books pertaining to business of debtor

Deeds

None .....	None
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Papers

Ordinary papers pertaining to business of debtor

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE, Vice-Pres.

Petitioner

## OATH TO SCHEDULE B

State of California

County of Los Angeles—ss.

I, J. R. McKinnie, Vice-President of, the person who subscribed to the foregoing schedule, do hereby make solemn oath that the schedule is a statement of all my property, real and personal, in accordance with the Act of Congress relating to bankruptcy, according to the best of my knowledge, information, and belief.

J. R. McKINNIE, Petitioner

Subscribed and sworn to before me this 19 day of June, 1942.

(Seal)

ADELE O. CARVER

Notary Public in and for county of Los Angeles, State of Calif.

(Official Character) [23]

## EXHIBIT D

## List of Executory Contracts

1. Oil and Gas Lease designated "El Segundo Block 31 Community Oil and Gas Lease", dated November 24, 1937, by and between F. R. C. Fenton and Dorothy S. Fenton, his wife, Ethelwyn Laurence, Edith L. Clark, Mary E. Arthur, Adele Dorothy Lauth, Edward L. Blincoe, Mary F. Hilder, Florence E. Ramsaur, William H. Ramsaur and Georgia H. Ramsaur, his wife, Anne E. Barrows, William A. Edwards and Sidney R. Edwards, his wife, Ivan S. Cummings and Sidney Margaret Cummings, his wife, and H. L. Welch, Lessors, and Sovereign Oil Corporation, Lessee, covering the following described property in Los Angeles County, California:

Lots 1, 5, 6, 9, 10, 13, 14, 15, 16, 17, and 18 in Block 31 of the Townsite of El Segundo, as per Map in Book 18, Page 69 of Maps, Los Angeles County Records.

2. Oil and Gas Lease dated the 13th day of May, 1937, by and between Henry Reineman and Frieda L. Reinemen, his wife, Joe F. Montgomery & Hester S. Montgomery, his wife, and Harry G. Kerr & Dolores M. Kerr, his wife, as Lessors, and J. F. Copinger, Lessee, assigned to Sovereign Oil Corporation by said J. F. Copinger on the 13th day of May, 1937, and covering the following described property located in Los Angeles County, California:

Lots 11, 12, 13, 44, 45 and 46 of Block 123 of the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 22, Pages 106 and 107 of Maps, Records of Los Angeles County.

3. Oil and Gas Lease dated the 14th day of April, 1938, by and between 18 lot owners and Elsie Oil Company, Lessee, assigned to Sovereign Oil Corporation by said Elsie Oil Company on the 14th day of April, 1938, and covering the following described property located in Los Angeles County, California:

Lots 1 to 18 both inclusive, Block 32, as per Sheet No. 1, El Segundo, recorded in Map Book 18, Page 69, Records of Los Angeles County.

4. Oil and Gas Lease dated the 31st day of March, 1937, by and between C. E. Hoyt, et al, Lessors, and Elsie Oil Company, Lessee, assigned to Sovereign Oil Corporation on the 23rd day of May, 1938, and

covering the following described property located in Los Angeles County, California:

Lots 1 to 37 both inclusive and Lots 39 and 40, Tract 3012, recorded in Map Book 29, Page 39, Records of Los Angeles County; and Lots 1 to 33 both inclusive, Tract 2028, recorded in Map Book 35, Page 37, Records of Los Angeles County and Lot 79, Block 123 as per Sheet No. 8, El Segundo, recorded in Map Book 22, Pages 106-107, Records of Los Angeles County.

5. Four separate Contracts between the debtor and the Standard Oil Company of California, each dated the 9th of January, 1942, covering sale by the debtor corporation and purchase by the said [24] Standard Oil Company of crude petroleum oil produced from wells located on each of the above described properties (Executory Contracts Nos. 1, 2, 3, and 4)

6. Assignments of participating royalty interests in the percentages as set forth in debtor's original petition herein. The holders of said participating royalty interests are not set forth herein because the royalties owing to them are subsequent to the unsecured creditors' rights herein.

SOVEREIGN OIL CORPORATION

By J. R. McKINNIE

Vice-President

State of California

County of Los Angeles—ss.

I, J. R. McKinnie, Vice-President of the person who subscribed to the foregoing statement of execu-

tory contracts, do make solemn oath that the matters therein contained are true and complete to the best of my knowledge, information and belief.

J. R. McKINNIE

Subscribed and sworn to before me this 19th day of June, 1942.

[Seal] ADELE O. CARVER

Notary Public in and for the County of Los Angeles, State of California [25]

EXHIBIT E

In the District Court of the United States for the Southern District of California, Central Division

No. . . . .

In the Matter of the Estate of

SOVEREIGN OIL CORPORATION, a Nevada Corporation

STATEMENT OF AFFAIRS

For Bankrupt or Debtor Engaged in Business

1. Nature, Location and Name of Business:

What business are you engaged in? Answer Producing Oil and other hydrocarbon substances

Have you ceased business and if so, when? Answer No

Where and under what name do you carry on such business? Answer Sovereign Oil Corporation, a Nevada corporation

When did you commence such business? Answer  
March 11, 1928

Where else, and under what other names, have you carried on business within the six years next before the filing of the original petition herein? Answer  
None

(Give street addresses, names of partners or associates, joint ventures, and the periods for which such business was carried on.)

## 2. Books and Records:

By whom, or under whose direction, have your books of account and records been kept during the two years next before the filing of original petition? Answer D. M. Smith

(Give names, address and length of time.)

By whom have your books of account and records been audited during the two years next before the filing of original petition? Answer Lyons & Lyons, Stock Exchange Building Los Angeles, Calif.

(Give names, addresses and dates of audits.)

In whose possession are your records and account books? Answer debtor

(Give names and addresses.)

## 3. Financial Statements:

Have you issued any financial statements within the two years immediately preceding the filing of original petition? Answer It may be that the debtor did issue financial statements upon request of stockholders or creditors, but affiant making the within statement does not know that it has.

(Give names, addresses and dates when issued, of the persons to whom issued, including agencies of all kinds.)

4. Inventories:

When was the last inventory of your property taken? Answer October 1941

By whom, or under whose direction, was this inventory taken? Answer California National Supply Company

What was the amount, in dollars, of the inventory? Answer Not priced

(Was inventory taken at cost, market, or otherwise.)

[26]

When was the next prior inventory of your property taken? Answer Not any taken

By whom, or under whose direction, was this inventory taken? Answer .....

What was the amount, in dollars, of this inventory? Answer .....

(Was inventory taken at cost, market, or otherwise.)

In whose possession are the records of the two inventories above referred to? Answer California National Supply Company has the estimate it took of the property of the debtor. An actual inventory was not taken, but merely an estimate of the debtor's holdings

(Give names and addresses.)

5. Income Other Than From Operation of Business:

What amount of income, other than from the opera-

tion of your business, have you received during each of the two next before the filing of original petition herein? Answer None

(Give particulars, as to source, and the amount received therefrom.)

6. Income Tax Returns:

Where did you file your last Federal and State income tax returns, and for what years? Answer 1942 for 1941—at Los Angeles

7. Bank Account and Safety Deposit Boxes:

What bank accounts have you maintained, alone or together with any other person, and in your own or any other name, within the two years immediately preceeding the filing of the original petition? Answer Union Bank and Trust Company—8th and Hill Sts., Los Angeles, Calif.

(Give the name and address of each bank, the name in which the deposit was maintained, and the name of every person authorized to make withdrawals from such account.)

What safe deposit box or boxes or other depository or depositories have you kept or used for your securities, cash or other valuables, within the two years next to the filing of the original petition herein? Answer None

(Give the name and address of the bank or other depository, of the name in which each box or other depository was kept, the name of every person who had the right to access thereto, a brief description of the contents thereof, and, if surrendered, when

surrendered, or, if transferred, when transferred and the name and address of transferred.)

8. Property Held in Trust:

What property do you hold in trust for any other person? Answer None

(Give name and address of each person, and a description of the property and the amount or value thereof.)

9. Prior Bankruptcy or Other Proceedings; Assignments for Benefit of Creditors:

What proceedings under the Bankruptcy act have been brought by or against you during the six years next before the filing of the original petition herein: Answer None

(Give the location of the Bankruptcy Court, the nature of the proceedings, and whether a discharge was granted or refused, or a composition, arrangement or plan was or was not confirmed.)

Was any of your property, at the time of the filing of the original petition herein, in the hands of a receiver or trustee? Answer None

(If so, give the name and location of the Court, the nature of the proceedings, a description of the property, and the name of the receiver or trustee.)

Have you made any assignment for the benefit of your creditors, or any general settlement with your creditors, within the two years next before the filing of the original petition herein? Answer None

(If so, give dates, the name of the assignee, and a brief statement of the terms of assignment or settlement.)

## 10. Loans Repaid:

What repayment of loans have you made during the year next immediately preceeding the filing of the original petition herein? Answer Yes — Debtor during January 1942 transferred to Oil Investors' Incorporation the interest of the debtor in three wells located at Wilmington, Calif., and said the proceeds from said well, to-wit, \$12,500.00 were distributed among National Supply Co., American Pipe & Steel Co. and Callowell Construction Co., on account of accrued indebtedness of the debtor

(Give the name and address of the lender, the amount of the loan and when received, the amount and date when repaid, and, if the lender [27] is a relative, the relationship. If the bankrupt or debtor is a partnership, state whether the lender is or was a partner or a relative of a partner, and, if so, the relationship. If the bankrupt or debtor is a corporation, state whether the lender is or was an officer, director or stockholder, or a relative of an officer, director or stockholder, and if so, state the relationship.)

## 11. Transfer of Property:

What property have you transferred or disposed of, other than in regular course of business, during the year immediately preceeding the filing of the original petition? Answer None, other than interest in three wells set forth under question 10 hereof (Give a description of the property, the date of the transfer or disposition, or whom transferred or how

disposed, and, if the transferee is a relative, the relationship, the consideration, if any, received therefor, and the disposition of such consideration.)

12. Accounts Receivable:

Have you assigned any of your accounts receivable during the year immediately preceeding the filing of the original petition herein? Answer None

(If so, give names and addresses or assignees.)

13. Losses:

Have you suffered any losses from fire, theft, or gambling during the years next before the filing of the original petition? Answer None

(If so, give particulars, including dates, and the amounts of money or value and general description of property lost.)

(If the Bankrupt or Debtor Is a Partnership or Corporation, the Following Additional Questions Should Be Answered.)

14. Withdrawals:

What personal withdrawals, including loans, have been made by each member of the partnership, or by each officer, director or managing executive of the corporation, during the year immediately preceeding the filing of the original petition herein? Answer None, other than salaries as hereinafter noted

(Give the name of each person, whether a partner, officer, director or manager, the dates and amounts of withdrawals, and the nature or purpose thereof.)

15. Members or Partnership; Officers, Directors, Managers, and Principal Stockholders of Corporation:

What are the names and addresses of each member of the partnership, or the names, titles and addresses of each officer, director and managing executive, and of each stockholder holding 25 per cent or more of the issued and outstanding stock, of the corporation?

Answer D. M. Smith, Santa Rosa, Calif. President, Salary Annual salary \$2745.93; J. R. McKinnie, V-Pres. 4037 Ingraham Los Angeles Calif. Salary \$2745.95 annually; Martha L. Taylor, Asst. Secty, and Asst. Treas. Salary \$1568.35.

Dated this 11 day of June, 1942.

SOVEREIGN OIL CORPORATION

Bankrupt

Debtor

By J. R. McKINNIE

State of California

County of Los Angeles—ss

I, J. R. McKinnie, Vice-President of, the person who subscribed to the foregoing statement of affairs, do make solemn oath that the answers therein contained are true and complete to the best of my knowledge, information, and belief.

J. R. McKINNIE

Bankrupt

Debtor

Subscribed and sworn to before me this 19 day of June 1942

[Seal]

ADELE O. CARVER

Notary Public

[Endorsed]: Filed June 19, 1942. [28]

[Title of District Court and Cause.]

APPROVAL OF DEBTOR'S PETITION AND  
ORDER OF REFERENCE UNDER SEC-  
TION 322 OF THE BANKRUPTCY ACT

At Los Angeles, in said District, on June 19, 1942 before the said Court the petition of Sovereign Oil Corporation, a corporation that he desires to obtain relief under Section 322 of the Bankruptcy Act, and within the true intent and meaning of all the Acts of Congress relating to bankruptcy, having been heard and duly considered, the said petition is hereby approved accordingly.

It is thereupon ordered that said matter be referred to Hugh L. Dickson, Esq. one of the referees in bankruptcy of this Court, to take such further proceedings therein as are required by said Acts; and that the said Sovereign Oil Corporation, a corporation shall attend before said referee on June 26, 1942 and at such times as said referee shall designate, at his office in Los Angeles, California, and shall submit to such orders as may be made by said referee or by this Court relating to said matter.

Witness, the Honorable Leon R. Yankwich Judge of said Court, and the seal thereof, at Los Angeles, in said District, on June 19, 1942

[Seal]                    EDMUND L. SMITH, Clerk  
By E. M. ENSTROM, JR.  
Deputy Clerk

[Endorsed]: Filed June 19, 1942. [29]

[Title of District Court and Cause.]

### ORDER APPOINTING NEW RECEIVER

In this proceeding, commenced on June 19, 1942, under Chapter XI of the National Bankruptcy Act of 1898, as amended by the Chandler Act of 1938, for an arrangement between the above named debtor corporation and its creditors, R. P. Cooney, upon application of the parties in interest, having been thereafter appointed and qualified on June 19, 1942, as Receiver of the debtor's estate, and having acted as such until November 7, 1942 and then resigned, and his resignation having then been accepted by the Court, and it appearing and the Court hereby finds that for the protection of the interests of all parties herein and the debtor's estate it is necessary that a new Receiver be forthwith appointed in the place and stead of the said R. P. Cooney, which said new Receiver shall operate the business and manage the property of the debtor until the further order of the Court, the said old Receiver having done likewise with the permission of the Court,

It Is Hereby Ordered that V. W. Erickson, of Los Angeles, California, be and he is hereby appointed as the new Receiver of the property and assets of the debtor, and

It Is Further Ordered that said new Receiver shall have the power to operate the business and manage the property of the debtor until further order of this Court, and the duties of said new Receiver are hereby specifically extended beyond those of a mere custodian within the meaning of

Section 48 of the Bankruptcy Act, to embrace the conduct of the business and management of the property of the debtor, the incurring of indebtedness, the protection of the [30] interests of the estate, and the power to prosecute or defend any pending suit or proceeding by or against the Debtor, or to commence and prosecute any suit or proceeding on behalf of the estate before any judicial, legislative or administrative tribunal in any jurisdiction, and said new Receiver shall act until further order of this Court.

It Is Further Ordered that during the operation of the business of the debtor and management of the property of the debtor, said new Receiver shall file reports thereof with the Court at such time or times as the Court may hereinafter order.

It Is Further Ordered that before entering upon his duties as new Receiver, said new Receiver shall furnish a bond conditioned for the faithful performance of his duties, with a good and sufficient surety or sureties, in the sum of \$10,000.00.

Dated this 7th day of November, 1942.

HUGH L. DICKSON

Referee in Bankruptcy

[Endorsed]: Filed Nov. 7, 1942 at 20 min. past 9 o'clock A.M. Hugh L. Dickson, Referee, C. M. Commins, Clerk, CMC.

[Endorsed]: Filed Sept. 16, 1943. Edmund L. Smith, Clerk by E. M. Enstrom, Jr., Deputy Clerk.

[Title of District Court and Cause.]

REFEREE'S CERTIFICATE ON REVIEW OF  
ORDER FIXING STATUS OF CLAIMS OF  
LANDOWNERS' ROYALTIES FROM "EL  
SEGUNDO BLOCK 31 COMMUNITY OIL  
AND GAS LEASE."

I, Hugh L. Dickson, one of the Referees in Bankruptcy of the above entitled court for Los Angeles County, respectfully certify that the above entitled bankruptcy proceeding is pending before me under a general order of reference.

The Debtor had filed its original petition under Chapter XI of the Bankruptcy Act and proposed an arrangement with its creditors. This plan was presented at the first meeting of creditors held on the 14th day of July, 1942, and as it seemed feasible, I ordered that it be put in operation for a tentative period of three months. It succeeded fairly well and was continued after that period while the plan of reorganization was worked out. On or about the 9th day of December, 1942, the Debtor, and the Western Mesa Oil Corporation, (the latter a company that had been organized to take over the assets of the Debtor in consummation of the plan of reorganization) filed a revised plan of arrangement and gave due notice of a meeting of creditors to be held on the 17th day of December, 1942 to hear and confirm said plan. That part of the revised plan of arrangement which related to landowners' royalties was contained in the following paragraph:

“Landowners’ royalties which carry with them the right of forfeiture of the oil and gas leases under which such royalties are payable and where such right of forfeiture has not, prior to the filing of the peti- [32] tion in bankruptcy, been waived either in writing or by the conduct of the parties, will be paid in full in the same manner as priority claims. Where, however, the facts disclose that prior to the filing of the proceedings hereunder by the debtor, the landowners, by writing or by their conduct, have legally waived the right of forfeiture as to any of the unpaid royalties, the same will be treated the same as those in the class of unsecured creditors. Should any controversy arise as to the proper status of such claims of holders of landowners’ royalties, the same shall be determined by the above entitled Court in the above entitled proceeding upon hearing after notice.”

The holders of claims for unpaid landowners’ royalties from “El Segundo Block 31 Oil and Gas Lease” appeared by their Committee, Wm. H. Ramsaur and Alan A. McCray and by their attorney, H. L. Welch, and asserted that they had not, prior to the filing of the petition in bankruptcy, either in writing or by their conduct, waived their right of forfeiture contained in said lease, and the Western Mesa Oil Corporation appeared by its counsel, R. Dechter, and asserted that said landowners had waived their right of forfeiture. A controversy as to the proper status of the landowners’ royalties

having thus arisen within the purview of the revised plan of arrangement, evidence was introduced on behalf of the claimants on the one part and on behalf of the Debtor's successor on the other part and the controversy was submitted to me for determination.

From the evidence introduced at said hearing and from the records and files of this proceeding I adduced the following facts:

### STATEMENT OF FACTS

The assets of the Debtor consist of four producing oil wells, each located on a separate leasehold within the Townsite [33] of the City of El Segundo, California. The leasehold under consideration covers Block 31 in said city. The Lessors are the owners of town lots within said Block and by the terms of said lease they have agreed to divide among themselves the royalties to be derived therefrom in the proportions that the number of square feet contained in the lot owned by each bears to the total number of square feet contained in said Block 31. The Lessors are numerous and have elected a committee to manage their interests in said lease.

Prior to September 1, 1942 the Debtor filed a suit in interpleader in the Superior Court of Los Angeles County requiring said Lessors to interplead their claims to said royalties. After that date the Debtor withheld the monthly royalties. The committee of the Lessors was told by those in charge of the Debtor that bank cashier's checks were being purchased each month with the proceeds of the royalties as they accrued and that the cash-

ier's checks would be delivered to the committee immediately upon the final determination of said interpleader suit. The final judgment in said interpleader suit was filed and entered on the 11th day of June, 1942. On the 17th day of June, 1942 those in charge of the Debtor delivered to the committee, bank cashier's checks representing the royalties for each month prior to March 1, 1942, and stated that the Debtor had ample funds receivable within a few days from which the balance of said accrued royalties would be paid. On the 19th day of June, 1942 the Debtor filed this proceeding in bankruptcy. No notice of forfeiture of the lease for non-payment of royalties was given by the Lessors to the Debtor. There was no written waiver of the right to declare a forfeiture. The claimants appeared by their committee and by their attorney at the first meeting of creditors and stated that they expected payment in full of accrued royalties and would not waive any of their rights but would participate in the plan of arrangement proposed by the Debtor if it did not involve a waiver of their rights. [34]

From the foregoing facts and the foregoing provisions of the Debtor's plan of arrangement I drew the following conclusions:

## CONCLUSIONS OF LAW

### I.

That said landowners' royalties carry with them the right of forfeiture of the said oil and gas leases under which said royalties are payable, and that

such right of forfeiture has not, prior to the filing of the petition in bankruptcy herein, been waived either in writing or by the conduct of the parties.

## II.

That the proper status of the claims of said holders of landowners' royalties is that of priority claims.

## III.

That said claims for landowners' royalties in the sum of \$2512.76 should be paid in full in the same manner as priority claims.

## QUESTION TO BE REVIEWED

The question to be reviewed by the District Court upon the petition for review of the El Segundo Oil Company and Western Mesa Oil Company is:

Did the landowners, who are the lessors in El Segundo Block 31 Community Oil and Gas Lease, either in writing or by their conduct, prior to the filing of the petition in bankruptcy, waive their right to declare a forfeiture of said lease?

There are appended hereto the following pleadings and exhibits:

1. Petition for Review of Referee's Order as to the Proper Status of Claims of Landowners' Royalties from "El Segundo Block 31 Community Oil and Gas Lease". [35]

2. Reporter's Transcript of Hearing on Order to Show Cause on Holders of Landowners' Royalties on December 17, 1942, at 10:00 A. M. and 2:00 P. M.

3. Petition for Determination of Rights and Status of Holders of Landowners' Royalties.

4. Findings of Fact and Conclusions of Law as to the Proper Status of Claims of Landowners' Royalties from "El Segundo Block 31 Community Oil and Gas Lease".

5. The Revised Plan of Arrangement.

6. Findings of Fact, Conclusions of Law, and Order Confirming Revised Plan of Arrangement.

7. The Proposed Amendments to Findings of Fact, proposed by Martin & Bowker on Sovereign wells Nos. 2 and 4, dated January 13, 1943.

8. The Amendment to Proposed Findings of Fact, Submitted by H. L. Welch on Behalf of Landowners of Well No. 1, otherwise described as El Segundo Block 31 Community Well, dated January 15, 1943.

9. Petition for Leave to Expend Funds for the Benefit of the Estate, dated July 7, 1942, filed by the receiver.

10. The Order to Show Cause directed to The National Supply Company, American Pipe and Steel Corporation, J. D. Rush and the Landowners of Wells Nos. 1, 2, 3 and 4.

11. The Affidavit of Mailing copies of the Order to Show Cause and the Petition.

12. The Order Granting Petition for Leave to Expend Funds for the Benefit of the Estate.

13. Receiver's Exhibits Nos. 1, 2 and 3.

14. Landowners Exhibit No. 1.

Dated: February 5, 1943.

HUGH L. DICKSON,  
Referee in Bankruptcy.

[Endorsed]: Filed Feb. 8, 1943. [36]

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[Title of District Court and Cause.]

### REFEREE'S CERTIFICATE ON REVIEW

I, Hugh L. Dickson, one of the Referees in Bankruptcy of the above entitled court for Los Angeles County, respectfully certify that the above entitled bankruptcy proceeding is pending before me under a general order of reference.

On December 17, 1942 a meeting of creditors of the Debtor was held before me to hear its revised plan of arrangement, to confirm said plan, and to determine the status of certain claims, among which were the claims of the respondents herein.

### STATEMENT OF FACTS

The principal and practically the sole assets of the debtor corporation are four oil leaseholds within the Townsite of the City of El Segundo, California. The leaseholds under consideration cover certain wells described as Sovereign No. 2 and Sovereign No. 4 wells. The leases are community oil and gas royalties wherein the royalties derived from said wells are payable to a number of lessors.

The royalties payable by the debtor corporation under the terms of the leases are payable monthly. That the debtor corporation paid to the landowners

of said No. 2 and No. 4 wells by check, dated March 20, 1942 the oil royalties due for the month of December, 1941; that the debtor corporation failed to pay any further royalties to said land owners after said date and prior to the filing of debtors petition in bankruptcy. No notice of forfeiture of the lease for nonpayment of royalties was given by the lessors to the debtor corporation. There was no written waiver by the lessors of their right [37] to declare a forfeiture under the terms of said leases for nonpayment of royalties.

The revised plan of arrangement which was served on the lessors herein and which was confirmed by me provided among other things as follows:

“Landowners’ royalties which carry with them the right of forfeiture of the oil and gas leases under which such royalties are payable and where such right of forfeiture has not, prior to the filing of the petition in bankruptcy, been waived either in writing or by the conduct of the parties, will be paid in full in the same manner as priority claims. Where, however, the facts disclose that prior to the filing of the proceedings hereunder by the debtor, the landowners, by writing or by their conduct have legally waived the right of forfeiture as to any of the unpaid royalties, the same will be treated the same as those in the class of unsecured creditors. Should any controversy arise as to the proper status of such claims of holders of landowners’ royalties the same shall be deter-

mined by the above entitled Court in the above entitled proceeding upon hearing after notice.”

From the foregoing facts and the foregoing provisions of the Debtor's plan of arrangement I drew the following conclusions:

## CONCLUSIONS OF LAW

### I.

That said landowners' royalties carry with them the right of forfeiture of the said oil and gas leases under which said royalties are payable, and that such right of forfeiture has not, prior to the filing of the petition in bankruptcy herein, been waived either in writing or by the conduct of the parties.

### II.

That the proper status of the claims of said holders of landowners' royalties is that of priority claims.

### III.

That said claims for landowners' royalties in the sum of \$1,398.20 on Sovereign Well No. 2 and \$1,409.26 on Sovereign Well No. 4 should be paid in full in the same manner as priority claims. [38]

## QUESTION TO BE REVIEWED

The question to be reviewed by the District Court upon the petition for review of the El Segundo Oil Company and Western Mesa Oil Corporation is:

Did the landowners who are the lessors in community gas and oil leases covering Sovereign No.

2 and Sovereign No. 4 wells, either in writing or by their conduct prior to the filing of the petition in bankruptcy waive their right to declare a forfeiture of said lease?

Dated February 5, 1943.

HUGH L. DICKSON,  
Referee.

[Endorsed]: Filed Feb. 8, 1943. [39]

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[Title of District Court and Cause.]

PETITION FOR DETERMINATION OF  
RIGHTS AND STATUS OF HOLDERS OF  
LANDOWNERS' ROYALTIES

The petition of the above named debtor corporation and of V. W. Erickson, the Receiver of the estate of said debtor corporation, and of Western Mesa Oil Corporation respectfully shows:

On June 19, 1942, the debtor filed in the above entitled Court in the above entitled proceeding, its original petition for an arrangement with its creditors, pursuant to the provisions of Chapter XI of the National Bankruptcy Act of 1898, as amended by the Chandler Act of 1938. Thereafter and on June 19, 1942, an order was made by the Judge approving the petition and referring further proceedings in the administration of the estate to Hugh L. Dickson, a Referee in Bankruptcy of this Court. Thereupon, and on June 21, 1942, R. P. Cooney was appointed and qualified by said Referee as Re-

ceiver of the debtor's estate. He acted as such until November 7, 1942, when he resigned and his resignation was accepted by the Referee. Thereupon, and on November 7, 1942, V. W. Erickson was appointed and qualified by the Referee as Receiver in the place and stead of R. P. Cooney, and is now acting as such.

On December 5, 1942, the debtor corporation filed herein for the consideration of creditors and the Court a revised plan of arrangement. The said plan will be presented to the Court for confirmation on December 17, 1942.

Western Mesa Oil Corporation, a corporation, is a party in interest herein in that, under such plan, it proposes to step into the shoes of the debtor corporation, at *lease* temporarily, and work out the plan.

The debtor is a Nevada corporation. It was engaged in the production and sale of oil and gas. It operated, under leases, four wells known as Sovereign Wells Nos. 1, 2, 3, and 4 in the El Segundo District in Los Angeles County. With the permission of the Court, the said Receivers during the bankruptcy have been carrying on the debtor's business.

At the time of the commencement of the bankruptcy certain royalties, known as landowners' royalties, had accumulated and were unpaid in favor of the lessors under said leases, commonly known as landowners, in a sum aggregating several thousand dollars. Under the provisions of this revised plan of arrangement, it is provided that these ac-

cumulative landowners' royalties shall be paid in full in cash, unless the facts disclosed that such landowners did by their conduct prior to bankruptcy waive any forfeiture rights they had under their leases to forfeit the same by reason of such non-payment of landowners' royalties. It now appears that, prior to bankruptcy, the landowners, after breaches of the conditions of their leases covering the said wells, accepted royalties under said leases from the debtor corporation with the full knowledge of all the facts and [40] that they are precluded thereby from enforcing any right of forfeiture arising out of such nonpayment and are relegated to the status of general creditors herein with respect to such unpaid royalties (see *Kern Sunset Oil Co. v. Good Roads Oil Co.*, 214 C. 435, 440).

In connection with the administration of the debtor's estate and the consummation of the said revised plan of arrangement, it is necessary that the status and rights of the holders of the said unpaid landowners' royalties be determined by this Court. All current landowners' royalties under the said leases, arising since the commencement of this bankruptcy proceeding, have been paid.

A list of the holders of said landowners' royalties is hereto attached as "Exhibit A" and made a part hereof.

Wherefore, the petitioners pray that a time and place be fixed by the Court for a hearing of this petition; that an order issue herein directing the said holders of the said landowners' royalties to

appear before the Court at such time and place for the determination of their rights and status; that upon such hearing an order be made in conformity herewith and the facts developed; for general relief; and for the costs of this proceeding.

Dated this 9th day of December, 1942.

GRAINGER & HUNT.

By REUBEN G. HUNT,

Attorneys for Debtor and for

V. W. Erickson, Receiver.

RAPHAEL DECHTER.

By HARRY PINES,

Attorney for Western Mesa

Oil Corporation. [41]

## EXHIBIT A

### Well # 1

The landowners involved here have a committee which they have appointed and which acts for them. The names and addresses of this committee are as follows:

A. A. McCray

8306 Wilshire Blvd., Beverly Hills, Calif.

F. R. C. Fenton

1735 S. Harvard Blvd., Los Angeles, Calif.

Wm. H. Ramsaur

425 S. Mayo, Compton, Calif.

### Well #2 \*See Exhibit A—page 3 for detailed list.

There are a large number of landowners involved in connection with Well #2. The practice of the debtor corporation has been to send a check for the percents of these particular landowners to the Bank of America, Inglewood Branch, Los Angeles County. This bank has a list of the names and addresses of such landowners and acts for them in this respect.

Bank of America

Inglewood Branch, Inglewood, California

## (Exhibit A—(Continued))

<u>Well #3</u>	
J. F. Copinger	501 So. Wilton Pl., Los Angeles, Calif.
Mr. and Mrs. Henry Reineman	7719 Norton, Los Angeles, Calif.
Mr. & Mrs. Milton B. Newman	710 Longwood, Los Angeles, Calif.
Frank Cribbs	4918 Tenth Ave., Los Angeles, Calif.
Mrs. Maude C. Gallup	1127 Toro St., San Louis Obispo, Calif.
Mr. & Mrs. Harry G. Kerr	1215 - 251st St., Harbor City, Calif.
Mr. & Mrs. Victor Loraux	4338 Live Oak St., Bell, California
Mr. & Mrs. Frederick Wesson	3865 Victoria, Los Angeles, Calif.
First Universalist Parish	300 So. Los Robles, Pasadena, Calif.
Mr. & Mrs. William Eden	Rte. 3, Box 134, Fort Scott, Kansas
Mrs. Frances Peele Beebe	92 Lincoln Rd., Brooklyn, N. Y.
Mr. & Mrs. Harry E. Ness	81 No. Craig Ave., Pasadena, Calif.
Mrs. Margaret J. Moore	5305 Sunset, Los Angeles, Calif.
Mr. & Mrs. Joe F. Montgomery	221 Concord Ave., El Segundo, Calif.
Miss Irma M. Schoepflin	391 So. Parkwood Ave., Pasadena, Calif.
William R. Sax )	
Joseph Little Kittinger )	c/o Irma M. Schoepflin
Paul H. Schoepflin )	391 So. Parkwood Ave., Pasadena, Calif.
Florence Sax Bushnell )	

(Exhibit A—(Continued))

Well #4

Hazel J. Forhan	967 East Broadway, Long Beach, Calif.
Margaret M. Gatter	6505-D Gentry St., Huntington Park, Calif.
Abe Lowenstine & Mandel Lowenstine, Executors of the Estate of	
J. Lowenstine,	Valparaiso, Indiana
Mrs. Amelia R. Jones	2033 Genesee St., Utica, New York
S. Beck and Jessie Beck	571 So. Coronado, Los Angeles, Calif.
Ella S. Matthews	c/o Liberty Bldg. & Loan Ass'n
	2512 So. Central Ave., Los Angeles, Cal.
Harold D. Dale and Hazel W. Dale	124 Eighth St., Manhattan Beach, Calif.
	[42]
Mrs. Rollo H. Frank, et al,	R. R. No. 1, Box 854, Arlington, Calif.
William P. Maurer	P. O. Box 872, Hermosa Beach, Calif.
Margaret B. Hanna,	
Mac D. Lewis & Nina R. Bowker	201 Grand Ave., El Segundo, Calif.
J. F. Hamm & Kate Hamm	511 So. Palm, Alhambra, Calif.

## (Exhibit A—(Continued))

## Well #4—(Continued.)

Clarence C. Hiatt

Adelaid D. Mosher

Floyd E. Atchison

Edlou Company

L. D. Johnson and Ethyl Johnson

Susie N. Hardy

Margaret Bell Hanna and

Mae D. Lewis

Ethel Packard Cattern,

Executrix of Estate of

Charles Cattern

Louis A. Deutsch

Henry M. Deutsch &amp;

Edna E. Deutsch

Katherine H. Griffith

314 Haviland Ave., Whittier, Calif.

1726 Anapuni St., Honolulu, Hawaii

200 W. Seventh St., San Pedro, Calif.

6381 Hollywood Blvd., Los Angeles, Calif.

1346 Ethel St., Glendale, Calif.

605 So. Normandie, Los Angeles, Calif.

201 Grand Ave., El Segundo, Calif.

1703 W. Sixty-fifth St., Los Angeles, Calif.

1605 Sunset Blvd., Los Angeles, Calif.

2632 W. Sixteenth Place, Los Angeles, Calif.

c/o Mrs. W. B. Hamilton, Keystone Apts.,

1369 Hyde St., San Francisco, Calif.

(Exhibit A—(Continued))

Well #4—(Continued.)	
Melvina C. Hollingsworth	c/o R. R. Lawes, 721 Sixteenth St., Santa Monica, Calif.
Orland A. Hillman and Roma H. Hillman	Box 130 Melrose Rte, Roseberg, Oregon
Paul Gellor	1001 Burnside, Los Angeles, Calif.
Charles J. Soyster and Evelyn S. Soyster	6700 Lime Ave., Long Beach, Calif.
Leah W. Hill and Clarence S. Hill	3848 Valley Brink Rd., Los Angeles, Calif.
George L. Nelson & Irene M. Nelson	2629 Manhattan Ave., Hermosa, Calif.
Curtis Y. Kimball	1200 Esplanade, Redondo Beach, Calif.
Nellie M. Yarnell and Ellis T. Yarnell	1200 Esplanade, Redondo Beach, Calif.
Katherine Yarnell	1200 Esplanade, Redondo Beach, Calif.
Ella W. Gifford	410 Newport Ave., Long Beach, Calif.
Mrs. Ruth Walker Wright	714 So. G. Street, Tacoma, Washington
Dorothy Blain	825 Benton Ave., Springfield, Missouri

## (Exhibit A—(Continued))

Well #4—(Continued.)

Joseph R. Marquette, Jr., Administrator of the Estate of Joseph R.

Marquette, Jr. deceased

Walter B. Kramer & Elysaabeth Gile

Kramer

Madeline Marino

H. T. Harper

George P. Beebe and

Frances P. Beebe

Lela B. Moss

George L. Nelson and

Irene M. Nelson

Adaline K. Eastham

Lora Cann

Elizabeth Duddy Cummings

1222 No. Normandie, Los Angeles, Calif.

2424 No. Washington Ave., Scranton, Pa.

619 Marina Blvd., San Francisco, Calif.

c/o G. C. Maile, 756 Fourth ~~St.~~ Ave

San Francisco, Calif.

92 Lincoln Road, Brooklyn, New York

127 W. 111 St., Los Angeles, Calif.

2629 Manhattan Ave., Hermosa Beach, Calif.

4655 Beacon St., Chicago, Illinois

455 No. Rowan Ave., Los Angeles, Calif.

P. O. Box 262, Station S., Los Angeles, Calif.

(Exhibit A—(Continued))

Well #4—(Continued.)

Rose K. Flaire

William B. Newby

Peter Zurcher

William P. Maurer

Ernest F. Wilson and

Jennie June Wilson

Florence N. Wilson

Sena C. Huse and Peter

L. Huse (Sena C Huse-deceased)

Peter L. Huse

Sena C. Huse Deceased

Stephen Pelletier

George L. Nelson and

Irene M. Nelson

C. E. Hoyt and Helen

Gertrude Hoyt

2925 Pasadena Ave., Los Angeles, Calif.

215 No. Maryland Ave., Glendale, Calif. [43]

604 Rock City St., Little Valley, N. Y.

P. O. Box 872, Hermosa Beach, Calif.

2829 Leland Ave., Whittier, Calif.

1007 No. La Jolla Ave., Hollywood, Calif.

see new address

~~5357 Virginia~~ Los Angeles, Calif.

Old address 5357 Virginia Ave.

New Address 716 N. Irving Blvd.,

P. L. Huse

1620 West Pico Blvd., Los Angeles, Calif.

2629 Manhattan Ave., Hermosa Beach, Calif.

c/o American Foundrymen's Association Inc.,

## (Exhibit A—(Continued))

## Well #4—(Continued.)

	222 W. Adams St., Chicago, Ill.
Clyde H. Baty and Mildred V. Baty	427 So. Figueroa St., Los Angeles, Calif.
Henry Van der Borg and Catherina Van der Borg	4216 Denker Ave., Los Angeles, Calif.

## \* Well #2

Edlou Company

Frances Palmer Howe  
Ethel Mae Marcher &

Frank A. Marcher

LeRoy Pinson & Grace Gage Pinson

Charles William Heinen

& Eve F. Heinen

Ida Elsie Maberry

Otto N. Appel & Helen Appel

8306 Wilshire Blvd., Beverly Hills  
1026 South Lucerne, Los Angeles

902 South Citrus, Los Angeles

RFD #2, Live Oak, California

Box 1448, Arcade Annex, Los Angeles

Route 2, Parma, Idaho

4610 Halldale Avenue, Los Angeles

(Exhibit A—(Continued))

Well #2—(Continued.)	
O'Rell D. DeLude	82 South Santa Anita, Pasadena
Harold H. Hecox & Mary G. Hecox	8314 S. Figueroa, Los Angeles
Eugene O. Menz & Mamie Menz	305 South Elm Drive, Beverly Hills, Calif.
Mrs. Olive G. Love	715 No. Reese Pl., Burbank, Calif.
Emily W. Dennis & Alfred E. Dennis	515 South Alexandria, Los Angeles
Lyle Wimmer Olivera & Joseph A. Olivera	1635 Camden Avenue, West Los Angeles
Robert S. Wimmer, Adm. of Estate of Elizabeth A. Wimmer, Decd.	241 S. Serrano Avenue, Los Angeles
Mary B. Campbell	3235 South Cordova Street, Alhambra
Ida L. Wilson	Box 33, Huntington, West Virginia
Louis B. Wilson	2119 Stanley Hills Drive, Los Angeles
Julia B. Boette, Henry O. Boette, and Dorothy Jane Boette	812 Ritter Park, Huntington, West Virginia
John Watson	Electra Palace, Parkgate, Nr. Rotherham Yorkshire, England

## (Exhibit A—(Continued))

Well #2—(Continued.)	
William E. Hullinger and Evelyn H. Hullinger	5332 Harcourt Avenue, Los Angeles
Harold Burns & Grace Mae Burns	703 E. El Segundo Blvd., El Segundo, Calif.
El Segundo Land & Improvement Co.	8306 Wilshire Blvd., Beverly Hills, Calif. Edison Building, Los Angeles
Edison Securities Company	
Winthrop Stark Davis & Tessa Marrin Davis	943 Lincoln Blvd., Santa Monica P. O. Box 1423, Palm Springs, Calif. [44]
Eugene V. Griffes & Kate S. Griffes	324 Maryland Street, El Segundo
Omo J. McClary & Wells F. McClary	6381 Hollywood Blvd., Los Angeles, Calif.
J. F. Anson & Teresa Anson	1953 Camden Avenue, West Los Angeles
Orris Hardacre & Ada Hardacre	4813 Ninth Avenue, Los Angeles
Frank G. Kline & May M. Kline	3015 Hyperion, Los Angeles
Fred K. Cairns & Violet L. Cairns	508 North Ardmore, Los Angeles
Charles Diffenbaugh & Grace B. Diffenbaugh	

(Exhibit A—(Continued))

Well #2—(Continued.)

Sara L. Feddersen

Ellis L. Zemansky

Florence Katz & Zundel Katz

C. E. Noble

J. H. Williams & Jennie Williams

Ray E. Dockstader

Ruth Dorothy Johnson

Rachel E. Carnahan

El Segundo Investment Co.

Donald B. Keyes & Jeanette H.

Keyes

Henrietta H. Hanna

Mary E. Laidlaw & Frances L. Tarr

Mary E. Laidlaw

Henry C. Hanna, Jr. and

Elinore Lacy Hanna

913 E. Grand Avenue, El Segundo

c/o Mrs. Katz, 10760 Lindbrook Dr. W.L.A.

10760 Lindbrook Dr., W.L.A.

1833 Canyon Drive, L. A.

400 H. W. Hellman Bldg., 354 S. Spring, L.A.

Oxnard, California

1919 Taft Avenue, Hollywood

1741 Garfield Place, Hollywood

e/o Victor D. McCarthy, El Segundo, Calif.

2428 Canyon Drive, Los Angeles

1634 S. Hayworth Avenue, L. A.

1035 North La Jolla Ave., L. A.

1035 North La Jolla Ave., L. A.

3161 Walnut, Riverside, Calif.

## (Exhibit A—(Continued))

Well #2—(Continued.)

Guy H. Curtis, Jr. and

Margaret Hanna Curtis

Hector M. Dyer &amp; Elizabeth

Hanna Dyer

Dr. L. P. Clarke

Angus A. Wallace

Elsie Wilke

Thomas F. Henson

536 Twin Palms, San Gabriel, Calif.

853 Lois Lane, Fullerton, Calif.

7906 Santa Monica Blvd., West Hollywood

425 W. 4th Street, Los Angeles

2650 N. Sawyer Avenue, Chicago, Ill.

1826 Massachusetts Avenue, N.W.,

Washington, D. C.

(Verified)

[Endorsed]: Filed Dec. 10, 1942 at 40 min. past 9 o'clock AM Hugh L. Dickson,  
Referee C. M. Commins, Clerk Br.

[Endorsed]: Filed Feb. 8, 1943 at ..... min past 5 o'clock PM Edmund L. Smith,  
Clerk By E. M. Enstrom, Jr., Deputy. [45]

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Upon consideration of the petition filed herein by the above named debtor corporation, V. W. Erickson, the Receiver of the estate of the above named debtor corporation, and Western Mesa Oil Corporation, a corporation, for the determination of the rights and status of the holders of unpaid landowners' royalties,

It Is Hereby Ordered that the said holders of such landowners' royalties be and they are hereby required to appear before the undersigned Referee in Bankruptcy, at his Courtroom at 343 Federal Building, Temple and Spring Streets, Los Angeles, California, on Thursday, December 17, 1942, at 10 A. M., then and there to show cause why the said petition should not be granted and the rights and status of such holders be fixed and determined by the Court.

It Is Hereby Further Ordered that service of such petition and this order shall be sufficient if made by mail at Los Angeles on or before Friday, December 11, 1942.

Dated this 10th day of December, 1942.

HUGH L. DICKSON

Referee in Bankruptcy

[Endorsed]: Filed Dec. 10, 1942 at 40 min past 9 o'clock A.M. Hugh L. Dickson, Referee, C. M. Commins, Clerk BR.

[Endorsed]: Filed Sep. 16, 1943 Edmund L. Smith, Clerk By E. M. Enstrom, Jr., Deputy Clerk.

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF  
LAW AS TO THE PROPER STATUS OF  
CLAIMS OF LANDOWNERS' ROYALTIES  
FROM SOVEREIGN NUMBER 2 and NUM-  
BER 4 WELLS IN THE EL SEGUNDO  
DISTRICT IN THE COUNTY OF LOS AN-  
GELES

The debtor herein having filed its revised plan of arrangement wherein it is, among other things provided as follows:

“Landowners’ royalties which carry with them the right of forfeiture of the oil and gas leases under which such royalties are payable and where such right of forfeiture has not, prior to the filing of the petition in bankruptcy, been waived either in writing or by the conduct of the parties, will be paid in full in the same manner as priority claims. Where, however, the facts disclose that prior to the filing of the proceedings hereunder by the debtor, the landowners, by writing or by their conduct, have legally waived the right of forfeiture as to any of the unpaid royalties, the same will be treated the same as those in the class of unsecured creditors. Should any controversy arise as to the proper status of such claims of holders of landowners’ royalties, the same shall be determined by the above entitled Court in the above entitled proceeding upon hearing after notice.”

A petition was filed by the Debtor and by the Western Mesa Oil Corporation for the determination of rights and status of holders of landowners' royalties, and after due notice said proceeding came regularly on for hearing on the 17th day of December, 1942 before [47] the Honorable Hugh M. Dickson, Referee in Bankruptcy, at his Court room in the Federal Building, Los Angeles, California. The holders of claims for unpaid royalties in Sovereign Wells number 2 and number 4 appearing by their attorneys, Martin and Bowker and the debtor appearing by its counsel, Grainger & Hunt and the Western Mesa Oil Corporation appearing by its counsel, R. Dechter, and the Court having heard the testimony and having examined the proof offered by the respective parties and the cause having been submitted to the Court for decision, and the Court being fully advised in the premises, now makes findings of fact and conclusions of law as follows:

### FINDINGS OF FACT

The Court finds:

#### I.

That pursuant to the terms of the Lease under which the debtor corporation operates Sovereign number 2 and Sovereign number 4 wells, the landowners' royalties are payable monthly; that the landowners' have a right of forfeiture for non payment of royalties when due; that the debtor corporation paid to the landowners' of number 2 and number 4 Sovereign wells, by check dated March

20, 1942, royalties due for the month of December, 1941; that the debtor corporation failed to pay any royalties to said landowners' after said date and prior to the filing of debtors petition in bankruptcy; the receiver for said debtor corporation has paid current royalties on said wells to the landowners as the same became due.

## II.

That the landowners' did not, prior to the filing of the petition in bankruptcy, in writing or by their conduct, waive their right of forfeiture as to any of the unpaid royalties; that by accepting the check dated March 20, 1942, for royalties for the month of December, 1941, said landowners' were not precluded thereby from [48] enforcing any right of forfeiture prior to the filing of the petition in bankruptcy by the debtor corporation.

## III.

That there are landowners' royalties accrued and unpaid for the months of January, February, March, April, May, and that part of June from the 1st to the 19th inclusively, in the total sum of Thirteen Hundred ninety-eight Dollars and twenty cents (\$1,398.20), on the number 2 Sovereign Well and the sum of Fourteen Hundred Nine Dollars and twenty-six cents (\$1,409.25) on the number 4 Sovereign Well; that said amounts include the over riding royalties due the successors in interest of the Elsie Oil Company, to-wit: A. A. McCray, M. C. McCray, Britt L. Bowker and Ruth Dyer Cornell.

CONCLUSIONS OF LAW

From the foregoing facts the Court concludes:

I.

That said landowners' royalties carry with them the right of forfeiture to the oil and gas leases under which said royalties are payable, and that said right of forfeiture has not, prior to the filing of the petition in bankruptcy herein, been waived either in writing or by the conduct of the landowners'.

II.

That the proper status of the claims of said holders of landowners' royalties is that of priority claims.

III.

That the claims for landowners' royalties in the sum of Thirteen Hundred ninety-eight Dollars and twenty cents (\$1,398.20) on Sovereign number 2 Well, and Fourteen Hundred nine Dollars and twenty-six cents (\$1,409.26) on Sovereign number 4 well should be [49] paid in full in the same manner as priority claims.

Dated this 20th day of January, 1943.

HUGH L. DICKSON

Referee in Bankruptcy.

Approved as to form as provided in Rule 44.

GRAINGER & HUNT

By .....

Attorneys for Debtor

[Endorsed]: Filed Jan 20, 1943 at ..... min past 9 o'clock AM Hugh L. Dickson, Referee C. M. Commins, Clerk BR.

[Endorsed]: Filed Sep. 16, 1943 Edmund L. Smith, Clerk By E. M. Enstrom, Jr., Deputy Clerk.

[50]

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[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF  
LAW AS TO THE PROPER STATUS OF  
CLAIMS OF LANDOWNERS' ROYALTIES  
FROM "EL SEGUNDO BLOCK 31 COM-  
MUNITY OIL AND GAS LEASE"

The debtor herein having filed its revised plan of arrangement wherein it is, among other things, provided as follows:

"Landowners' royalties which carry with them the right of forfeiture of the oil and gas leases under which such royalties are payable and where such right of forfeiture has not, prior to the filing of the petition in bankruptcy, been waived either in writing or by the conduct of the parties, will be paid in full in the same manner as priority claims. Where, however, the facts disclose that prior to the filing of the proceedings hereunder by the debtor,

the landowners, by writing or by their conduct, have legally waived the right of forfeiture as to any of the unpaid royalties, the same will be treated the same as those in the class of unsecured creditors. Should any controversy arise as to the proper status of such claims of holders of landowners' royalties, the same shall be determined by the above entitled Court in the above entitled proceeding upon hearing after notice."

a meeting of creditors after due notice was held before the Honorable Hugh M. Dickson, Referee in Bankruptcy, at his court room in the Federal Building, Los Angeles, California, on the 17th day of December, 1942, to hear said revised plan of arrangement. The holders of claims for unpaid landowners' royalties in El Segundo Block 31 Community Well appearing by a majority of their committee, to-wit, Wm. H. Ramsaur and Allan A. McCray, by their attorney, H. L. Welch, and asserting that they had not, prior to the filing of the petition in bankruptcy, either in writing or by their conduct, waived their rights of forfeiture of said leases, and the Debtor appearing by its counsel, Grainger & Hunt, and the Western Mesa Oil Corporation, appearing by its counsel, R. Dechter, and asserting that said land- [51] owners had waived their right of forfeiture, and a controversy having thus arisen as to the proper status of such claims of said holders of landowners' royalties, documentary and oral evidence was introduced on behalf of said landowners on the one part and on behalf of the Debtor on the

other part, and the case being closed and submitted for decision, the Court now makes and files its findings of fact and conclusions of law as follows:

### FINDINGS OF FACT

The Court finds:

#### I.

That under the terms of the lease under consideration landowners' royalties are payable monthly and the owners have a right of forfeiture for non-payment; that monthly royalties were not paid by the Debtor to the claimants after September 1st, 1941, but then and thereafter there was pending in the Superior Court of Los Angeles County an interpleader suit brought by the Debtor requiring the claimants to interplead their claims to said royalties; that at all times during the pendency of said interpleader suit the claimants were told by those in charge of the Debtor that bank cashier's checks were being purchased each month with the proceeds of the royalties as they accrued and that said cashier's checks would be delivered to claimants immediately upon the final determination of said interpleader suit. That on the 17th day of June, 1942 immediately after the final determination of said interpleader suit the claimants demanded delivery of said cashier's checks; that at said time those in charge of the Debtor delivered cashier's checks for all royalties accruing prior to March 1, 1942 and stated that the Debtor had ample funds receivable within a few days from which the balance of said accrued royalties would be paid. That

immediately thereafter the Debtor filed this proceeding in bankruptcy. [52]

II.

That the landowners did not, prior to the filing of the petition in bankruptcy, in writing waive their right of forfeiture as to any of the unpaid royalties; on the contrary the Court finds that said landowners at the time of the delivery to them of the cashier's checks above mentioned specified in writing that said checks were received as payment of royalties for the months in which they accrued, that is to say, for the months prior to March 1, 1942.

III.

That there are landowners' royalties accrued and unpaid for the months of March, April, May and that part of June from the 1st to the 19th inclusive, in the total sum of \$2512.76.

CONCLUSIONS OF LAW

From the foregoing facts the Court concludes:

I.

That said landowners' royalties carry with them the right of forfeiture of the said oil and gas leases under which said royalties are payable, and that such right of forfeiture has not, prior to the filing of the petition in bankruptcy herein, been waived either in writing or by the conduct of the parties.

## II.

That the proper status of the claims of said holders of landowners' royalties is that of priority claims.

## III.

That said claims for landowners' royalties in the sum [53] of \$2512.76 should be paid in full in the same manner as priority claims.

Dated this 20th day of January.

HUGH L. DICKSON

Referee in Bankruptcy.

Approved as to form as provided in Rule 44.

GRAINGER & HUNT

By .....

Attorneys for Debtor.

[Endorsed]: Filed Jan 20, 1943 at ..... min past 9 o'clock AM Hugh L. Dickson, Referee C. M. Commins, Clerk BR.

[Endorsed]: Filed Feb 8, 1943 at ..... min past 5 o'clock PM Edmund L. Smith, Clerk By E. M. Enstrom, Jr., Deputy. [54]

[Title of District Court and Cause.]

## REVISED PLAN OF ARRANGEMENT

The above named debtor corporation offers herein a revised plan of arrangement, as follows:

### I. PRELIMINARY STATEMENT

The debtor is a Nevada corporation. It was engaged in the production and sale of oil and gas. It operated, under leases, four wells, known as Sovereign Wells Nos. 1, 2, 3 and 4, in the El Segundo District in Los Angeles County. During the course of its business, it issued to the public participating per cents in the gross production of its wells. It became involved financially, owing debts to secured and unsecured creditors, taxing units, landowners for royalties under leases, and holders of participating per cents. The debtor is insolvent not only because it is unable to pay its debts in the ordinary course of business as they mature, but also because its assets, at a fair valuation, are insufficient to pay its debts. Hence the bankruptcy.

### II. HISTORY OF THE BANKRUPTCY

On June 19, 1942, the debtor filed in the above entitled Court in the above entitled proceeding, its original petition for an arrangement with its creditors, pursuant to the provisions of Chapter XI of the National Bankruptcy Act of 1898, as amended by the Chandler Act of 1938. Thereafter and on June 19, 1942, an order was made by the

Judge approving the petition and referring further proceedings in the administration of the estate to Hugh L. Dickson, a Referee in Bankruptcy of this Court. Thereupon, and on June 21, 1942, R. P. Cooney was appointed and qualified by said Referee as Receiver of the debtor's estate. He acted as such until November 7, 1942, when he resigned and his resignation was accepted by the Referee. Thereupon, and on November 7, 1942, V. W. Erickson was appointed and qualified by the Referee as Receiver in the place and stead of R. P. Cooney, and is now acting as such.

With the permission of the Referee, the Receivers have operated the business of the debtor. In such operation they have been able materially to cut down the cost of operation and to make substantial payments in reduction of the amounts due to secured creditors and the landowners from whom the leases were received. Current expenses of administration have been paid. No payments have been made upon claims arising prior to, and in existence at the time of, the commencement of [55] bankruptcy; nor have any payments been made to participating per cent holders. All prior labor debts were paid before bankruptcy.

Litigation is now pending between the Receiver and the National Supply Co. over the amount of its claim against the debtor's estate, secured and unsecured, and between the Receiver and the holders of participating per cents as to whether their rights are on a par with, or superior to, those of unsecured creditors, or are subordinate to the pay-

ment of unsecured claims. See *In re Lathrap* (C. C.A. 9), 61F. (2d) 37, 22 A.B.R. (NS) 136. If this revised plan is accepted by the creditors and confirmed by the Court, the claim of the National Supply Co. will be definitely established at the sum of \$175,117.54 as of Sept. 30, 1942. This sum is secured by an assignment of an oil and gas lease embracing the premises on which is situate the El Segundo No. 1 Well, together with said well and the production therefrom, and is further secured by miscellaneous conditional sales contracts, and a chattel mortgage on equipment, all as more fully set forth in the claim of the National Supply Co. on file herein. The rights of per cent holders will be governed by the provisions of this plan if a majority in number and amount of participating per cent holders consent thereto; otherwise, the new corporation, to which it is proposed herein the assets of the debtor will be transferred, will agree to accept such assets subject to the rights of said per cent holders as determined by the above entitled Court upon hearing after notice.

### III. PURPOSES OF THE REVISED PLAN

The Receivers have demonstrated that, for the present at least, the wells can be operated at an operating profit and that it is feasible to work out a plan of arrangement.

The plan here proposed will provide a method whereby, under the jurisdiction and supervision of the above entitled Court in this case, the unsecured claims will be satisfied and discharged, taxes and

expenses of administration will be paid in cash, holders of landowners' royalties will be paid as the Court directs, and current payments will be made to the holders of secured claims.

#### IV. CLASSES OF CREDITORS AND OTHER INTERESTED PARTIES

There shall be the following classes of creditors and other interested parties:

1. Secured creditors, holding conditional sales contracts, chattel mortgages, etc.
2. Tax units holding claims entitled to priority of payment.
3. Unsecured creditors.
4. Holders of landowners' royalties.
5. Participating per cent holders.
6. Stockholders.

Filed concurrently herewith is a list of the persons included in the foregoing classes.

In the light of the Lathrap case, *supra*, holders of participating per cents are not treated as creditors, but as holders of rights subordinate to those of creditors and superior to those of stockholders.

The only persons directly affected by the plan to be submitted hereunder are the unsecured creditors, the priority creditors, the holders of landowners' royalties, and the per cent holders (per cent holders [56] being those persons to whom the debtor sold percentage interests under a permit of the California State Corporation Department for the purpose of raising capital to drill the four wells

hereinabove mentioned in the El Segundo District, all as is more fully set forth in the applications to the Corporation Commissioner). The rights of secured creditors are not affected by this plan because the plan contemplates that the assets will be transferred, as hereinafter set forth, to a new corporation, subject to the rights of secured creditors.

Landowners' royalties which carry with them the right of forfeiture of the oil and gas leases under which such royalties are payable and where such right of forfeiture has not, prior to the filing of the petition in bankruptcy, been waived either in writing or by the conduct of the parties, will be paid in full in the same manner as priority claims. Where, however, the facts disclose that prior to the filing of the proceedings hereunder by the debtor, the landowners, by writing or by their conduct, have legally waived the right of forfeiture as to any of the unpaid royalties, the same will be treated the same as those in the class of unsecured creditors. Should any controversy arise as to the proper status of such claims of holders of landowners' royalties, the same shall be determined by the above entitled Court in the above entitled proceeding upon hearing after notice.

#### V. GENERAL SCHEME OF THE PLAN EXCLUSIVE OF PARTICIPATING PER CENT HOLDERS

(1) Debtor will cause to be organized a new corporation, with five directors, under the laws of the State of California, with an authorized capital

stock of \$100,000.00, divided into a hundred thousand common shares of \$1.00 par value per share. A copy of the Articles of Incorporation of such new corporation is filed concurrently herewith. The name of the said corporation shall be El Segundo Oil Co., or such other suitable name as may be approved by the California Secretary of State. Upon the confirmation of this plan, and upon the issuance of a permit by the California State Corporation Department, said new corporation will issue capital stock to the general unsecured creditors herein on the basis of 20 per cent of the amount of their claims. In other words, if an unsecured creditor's claim amounts to \$100.00, he will be entitled to received \$20.00 par value of the capital stock of said new corporation. Such stock will be accepted by such general unsecured creditors in full payment, release and discharge of their claims against the debtor. Thereupon the general unsecured creditors with allowed claims shall sell such stock so issued to them to Western Mesa Oil Corporation at par for cash, and Western Mesa Oil Corporation shall thus become the sole stockholder of the new corporation.

(2) Said new corporation will cause to be paid in full all priority claims and all costs and expenses of administration, as the same may be fixed and determined by the above Court upon hearing after notice. Such amount will be deposited as the above entitled Court directs, prior to the final confirmation of this plan, by the Western Mesa Oil Corporation, a corporation, for the benefit of such

new corporation. In the event that this plan is finally confirmed, said new corporation will issue its demand note to the Western Mesa Oil Corporation for such amount as it may have deposited in Court for the payment of priority claims and costs and expenses of administration, such demand note to bear interest at the rate of six per cent per annum from date until paid. In the event such plan is not finally confirmed, then such sum so deposited by the Western Mesa Oil Corp. will be returned to it. The new corporation will take title to [57] and possession of all of the assets of the debtor corporation as of the date of the final confirmation of this plan. The present receivership, without any expense of any kind to said new corporation and without any interference with the title and possession of the new corporation of the assets so acquired from the debtor corporation, shall continue until J. R. McKinnie shall exercise, or fail to exercise, the option hereinafter mentioned within the time limited, or such further time as may be granted by Western Mesa Oil Corporation. During the option period, the said McKinnie shall have the right to designate someone on his behalf to follow the new corporation in its operation of the wells, with free access to the debtor's premises and the wells and equipment and the books and records of the new corporation, during all reasonable business hours. In case any dispute arises between the new corporation and said McKinnie, or such person so designated by him, respecting the operation of the wells and the use of such assets, the same shall be

determined by the above entitled Court upon notice. During the thirty day option period, or any extension thereof, the new corporation shall have the right to operate the debtor's wells, but shall not use any of the proceeds therefrom, or any of the money on hand, except for necessary and proper current operating expenses, and shall not remove any of the equipment from said wells, except upon order of this Court upon notice to said McKinnie. It is the purpose and intent of this provision that such assets taken over by the new corporation upon the final confirmation of this plan shall remain intact, as far as is reasonably possible, until the exercise by McKinnie, or his failure to exercise, such option.

(3) If claims are filed by creditors in amounts differing from those set forth in the schedules filed herein, or if creditors file claims which are not listed in the schedules, or if there appear to be any objectionable claims filed, the debtor, or any party in interest, including the new corporation, shall have the right to object to the allowance of the same, and such alleged creditors shall participate in the plan as confirmed, only on the basis of the amount of their claims as may finally be allowed by this Court. This provision shall include the right to reject any and all executory contracts, including the contract held by R. P. Cooney for the payment to him of 2% of the gross amount received from the Standard Oil Co. for the sale of oil to it, and the right to object to the allowance of any claim for damages filed herein based upon

the rejection of any executory contract. The said R. P. Cooney agrees that any such claim of his shall not be allowed for a sum in excess of \$5193.00.

(4) In connection with the holders of participating per cents, the debtor states that for the purpose of financing and securing the necessary capital to defray part of the costs of drilling the El Segundo wells, debtor filed an application for a permit to the California State Corporation Department, setting forth that it contemplated drilling such wells and that for the purpose of raising such capital it desired to sell such percentage interests; that such permit was obtained, and such percentage interests were sold, pursuant to such permit, and the moneys raised therefrom were used by the debtor as capital for the purpose of defraying, insofar as said moneys were available, the cost of drilling such wells.

(5) In view of the insolvent condition of the debtor, a majority in number and amount of general unsecured creditors are willing to accept capital stock of the new corporation on the basis of twenty cents (20c) on the dollar of their claims. Upon the confirmation of this plan, the said Western Mesa Oil Corporation shall [58] forthwith purchase for cash at par the capital stock of the new corporation issued to the unsecured creditors and shall thus become the sole stockholder of the corporation.

(6) The debtor requests that notice of the time and place of the hearing on the confirmation of this plan be sent to the debtor's stockholders, and that

upon such hearing the Court make a finding that the debtor is insolvent and there is not any equity in its assets for the benefit of the stockholders and that they may be disregarded in connection with this plan, except as herein provided.

(7) Debtor undertakes to cause said new corporation to assume the obligations, to make the agreements, and to carry out the provisions of this plan, insofar as it pertains to such new corporation.

(8) Said new corporation and its stockholders will, upon the final confirmation of this plan, grant an option to J. R. McKinnie, the Vice-President of the debtor corporation, providing that time is of the essence and that the same must be exercised within thirty days from the date of the final confirmation of the plan. Under this option said J. R. McKinnie shall have the right, for and on behalf of the debtor corporation and its stockholders, to purchase from the said Western Mesa Oil Corporation all of the capital stock of the new corporation at a price which shall be equal to twenty per cent of the allowed general unsecured claims (the said Western Mesa Oil Corporation having, in the meantime, acquired all of such capital stock from the holders thereof at par, as above provided), plus interest thereon at six per cent per annum until paid from the date of the purchase of the said capital stock by the Western Mesa Oil Corporation from the creditors, plus an additional sum for reasonable and proper attorneys' fees, necessarily and properly incurred by and on behalf of such new

corporation, or Western Mesa Oil Corporation, in connection with and negotiating for, and the consummation of, this plan, the organization of such new corporation, and the issuance of stock thereunder, and the adjustment of the controversies with the per cent holders and such other matters as may be reasonable and necessary in connection with properly carrying out this plan, plus expenses, not paid for out of production, necessarily and properly incurred by said new corporation, and said Western Mesa Oil Corporation, in connection with this plan and its consummation, plus an additional sum of \$2500.00 as a bonus. Should any controversy arise between said J. R. McKinnie and said new corporation and/or Fraser over such fees and expenses, such controversy shall be determined by the above Court upon hearing after notice. Should said J. R. McKinnie elect to exercise such option, he shall have the right to replace the Board of Directors of the new corporation with directors of his own choice. Said J. R. McKinnie agrees that, in the event he exercises such option, he will give the stockholders of the debtor corporation an option for a period of ten days after written notice, to share with him in the benefits of such purchase in the proportion that their present holdings bear to the total issued capital stock of the debtor, by paying to him in cash the equivalent portion of his outlay in cash. The said Western Mesa Oil Corporation will purchase the said claim of the National Supply Company, if this plan is finally confirmed, and, concurrently with the granting of

the said option to J. R. McKinnie to purchase the capital stock of the new corporation, said Western Mesa Oil Corporation will likewise grant to J. R. McKinnie an option to purchase within thirty days from the date of the final confirmation of this plan, such secured claim of the National Supply Company for the sum of \$46,000.00, less such [59] amounts as may be paid by the debtor or the new corporation on such claim of the National Supply Company after the purchase of such claim by said Western Mesa Oil Corporation, or prior thereto after the date hereof, plus interest at six per cent per annum from the date of such purchase by Western Mesa Oil Corporation. Said J. R. McKinnie will, in the same manner and upon the same basis, offer to the stockholders of the debtor corporation the right to share in the benefits of the purchase of said secured claim of The National Supply Company in the same manner hereinabove set forth for their sharing in the benefits of the purchase of the capital stock of the new corporation by said McKinnie.

(9) It shall be a condition precedent to the right of said J. R. McKinnie to exercise such options, to purchase concurrently therewith from the Western Mesa Oil Corporation (a) the demand note of the new corporation to the Western Mesa Oil Corporation for such amount as Western Mesa Oil Corporation may have deposited and paid out for priority claims and expenses of administration, as aforesaid; and (b) to purchase likewise any other claims of secured creditors herein that said West-

ern Mesa Oil Corporation may have purchased in the interim for an amount equal to the purchase price paid by it for such secured claims, less such amounts as may have been paid thereon by the new corporation and the debtor, plus six per cent per annum until paid on all of the outlays of the Western Mesa Oil Corporation, as hereinabove set forth.

(10) R. P. Cooney, the former Receiver herein, shall be entitled to participate with J. R. McKinnie in the whole enterprise upon such terms as may be agreed upon between him and said McKinnie.

(11) The debtor will execute any and all necessary documents and instruments and take any and all action that may be necessary or desirable to consummate and effectuate this revised arrangement as finally confirmed by the Court. Such new corporation will accept the transfer of title of such assets of the debtor, subject to the rights and liens of the secured creditors hereinabove mentioned, and landowners under their leases, and holders of participating per cents, as provided herein.

(12) The above entitled Court shall retain jurisdiction until the provisions of this arrangement, after its final confirmation, have been fully performed, including (a) the issuance of capital stock by the new corporation to the general unsecured creditors, or their respective nominees; (b) the issuance of notes to Western Mesa Oil Corporation for moneys advanced to such new corporation by said Western Mesa Oil Corporation for the purpose of discharging in cash the administrative expenses and the priority claims; and (c) the exercise, or

failure to exercise within the required time, of the McKinnie options hereinabove referred to.

## VI. PARTICIPATING PER CENT HOLDERS

In the event this plan is consented to by a majority in number and amount of the participating per cent holders:

Said new corporation, in acquiring the title to the assets of the debtor, will take title to such assets subject to the rights of the per cent holders as hereinafter set forth, to-wit:

(1) Said new corporation will use the proceeds from the gross production of said wells and pay and distribute the same as follows: [60]

(a) Payments of landowners' royalties.

(b) Payment to secured creditors hereinabove set forth.

(c) Actual operating expenses (actual operating expenses to include a charge of \$150.00 for bookkeeping services and an additional amount for actual supervision of the operation of said wells).

(d) The remaining net production will be used and retained by the new corporation until such time as it shall have received an amount equal to the total and aggregate amount that it shall have paid out for priority claims, costs and expenses of administration, claims of unsecured creditors, figured on the basis of 20 cents on the dollar on claims of unsecured creditors as filed and allowed herein, and the claims of secured creditors plus six per cent per annum from the time of payment of

such amounts. However, for the purpose of this subdivision of this plan, to-wit, insofar as participating per cent holders are concerned, the claim of the National Supply Company shall be deemed to be \$46,000.00.

(e) After such new corporation has been fully reimbursed as hereinabove set forth, plus six per cent per annum interest, from the net production of the wells as hereinbefore set forth, then and at such time the participating per cent holders will receive thereafter from the production the amount of their royalties as provided for in the respective royalty interest assignments (which provide for a percentage of the gross production less a proportionate operating charge not to exceed \$8.00 per month per one per cent) and in addition to the receipt of their regular and current royalty in accordance with their assignments, there shall be set aside by said new corporation a temporary ten per cent participating per cent assignment in the same manner and form and to the same effect as the assignments now held by the per cent holders, which temporary ten per cent participating assignment shall be used for distribution pro rata to the per cent holders until such time as the per cent holders have received from such temporary ten per cent participating assignment an amount equal to the royalty payments which they have waived and/or deferred from the date of the confirmation of the plan to the date that the new corporation has been reimbursed in the manner hereinabove set forth. After such income from such temporary

ten per cent participating royalty interest assignment has repaid to the per cent holders the royalties which they have waived or deferred from the date of the confirmation of the plan to the date on which the new corporation is reimbursed for the moneys expended, as hereinabove set forth, then the income of such temporary ten per cent royalty assignment shall be used to pay such participating per cent holders pro rata an amount equal to twenty per cent of the royalties which accrued to them prior to the date of the confirmation of the arrangement and which were unpaid prior to the date of the confirmation of the arrangement.

In the event that a majority in number and amount of per cent holders do not consent to this plan, then this plan is conditioned upon the above entitled Court making an order that the rights of the per cent holders are subordinate to the rights of creditors, both secured [61] and unsecured, pursuant to the Lathrap case, *supra*.

## VII. ALLOWANCES FOR COMPENSATION AND EXPENSES OF ADMINISTRATION

Concurrently herewith the Court shall direct all persons entitled to do so to file their applications for compensation and expenses as prescribed by the Bankruptcy Act in this type of proceeding, and to include notice of such applications in the notice of hearing on the plan of arrangement, and to have such applications for compensation and expenses heard at the same time and place as the hearing on the confirmation of the plan of arrange-

ment. The new corporation shall in no wise be responsible or charged with any compensation or expenses of administration herein arising on and after the date of the confirmation of the plan of arrangement by the Court.

Dated this 3rd day of December, 1942.

SOVEREIGN OIL CORPORATION,

a corporation, Debtor

By J. R. McKINNIE

Vice-President

GRAINGER & HUNT

By REUBEN G. HUNT

Attorneys for Debtor

The foregoing plan is hereby approved, subject to final approval & confirmation by Court by Dec. 20, 1942.

R. P. COONEY

R. DECHTER

Attorney for Western Mesa  
Oil Corporation

\* \* \* \* \*

[Endorsed]: Filed Dec. 5, 1942 at . . . min. past 10 o'clock A.M. Hugh L. Dickson, Referee. C. M. Commins, Clerk Br.

[Endorsed]: Filed Feb. 8, 1943 at ..... min. past 5 o'clock P.M. Edmund L. Smith, Clerk by E. M. Enstrom, Jr., Deputy. [62]

[Title of District Court and Cause.]

FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND ORDER CONFIRMING RE-  
VISED PLAN OF ARRANGEMENT

A meeting of creditors to hear the Debtor's revised plan of arrangement, the filing of application to confirm the same, and the considering or the confirmation thereof and of any objections thereto, came on regularly for hearing in the courtroom of the Honorable Hugh L. Dickson, Referee in Bankruptcy, on December 17, 1942, at the hour of ten o'clock a. m., the Debtor appearing by its attorneys, Grainger & Hunt, by Reuben G. Hunt, the El Segundo Oil Company appearing by its attorney, Raphael Dechter, Cantillon & Glover, by John E. Glover, appearing for all of the per cent holders who have heretofore appeared in response to the Receiver's petition to determine the rights of participating per cent holders, Russell B. Seymour appearing for Charles D. Andrews, the holder of a participating royalty interest of one per cent in El Segundo No. 1 well, and certain stockholders appearing by Dryer, Richards & Page, by Phillip H. Richards, of counsel, and other stockholders appearing in person; and the matter having been duly and regularly heard and considered, the Court finds as follows:

1. That due and proper notice of said hearing has been given to creditors of all classes, to holders of landowners' royalties, to holders of participating royalty interests in the wells of the Debtor, to stockholders of the Debtor, and to all other par-

ties having any interest or concern in the matter.

2. That no objection or opposition to the confirmation of said revised plan of arrangement was presented, except that Russell B. Seymour, on behalf of said Charles D. Andrews, the holder of a one per [63] cent participating royalty interest in El Segundo No. 1 Well, objected to any order subordinating royalties accruing to said Charles D. Andrews as the holder of said one per cent participating royalty interest in said El Segundo No. 1 Well, to the class of creditors as set forth in the revised plan; that said objection was considered by the Court and overruled.

3. That said revised plan of arrangement has been duly accepted in accordance with the provisions of Chapter XI, and that the deposit required by the provisions of said Chapter and by said revised plan of arrangement, amounting to the sum of \$8,543.48, has been deposited subject to the order of the Court and in the manner designated by the Court; that all the provisions of said Chapter have been complied with by the Debtor; that the revised plan of arrangement is for the best interests of the creditors of said Debtor; that the revised plan of arrangement is fair and equitable and feasible; that the Debtor has not been guilty of any of the acts or failed to perform any of the provisions which would be a bar to the discharge of the Debtor; and that the proposal and its acceptance are in good faith and have not been made or procured by any means, promises or acts forbidden by said Act.

4. The Court finds that the fair and reasonable

market value of the assets of the Debtor is the sum of \$51,000.00; that the liabilities, as shown by the schedules on file herein, are far in excess of the fair and reasonable market value of such assets; that the Debtor is manifestly insolvent, both by reason of the fact that it is unable to pay its debts as they mature, and also by reason of the fact that the aggregate of its property is not of a fair valuation sufficient in amount to pay its debts, and that there is therefore no equity of any kind in such assets for the stockholders of the Debtor, and that therefore, for the purposes of this revised plan of arrangement the interests of the stockholders as a class may be disregarded.

5. The Court finds that the revised plan of arrangement [64] contemplates that the assets will be transferred to a new corporation, the El Segundo Oil Company, subject to the liens of the claims of secured creditors, and the Court therefore holds that the claims of such secured creditors are not affected by the revised plan.

6. The Court finds that it is true that the class designated in the revised plan of arrangement as participating per cent holders are those persons to whom the Debtor sold participating royalty percentage interests under a permit of the California State Corporation Department for the purpose of raising capital to drill four wells owned by the Debtor in the El Segundo District, and that the funds derived therefrom were used by the Debtor as capital for the purpose of defraying the costs of drilling such wells.

7. The Court finds that the class of participating per cent holders has heretofore been determined by this Court by an order made by this Court on December 5, 1942, and that the revised plan of arrangement contemplates that the assets of the Debtor will be transferred to said new corporation, the El Segundo Oil Company, subject to the rights of participating per cent holders, as set forth in said order of December 5, 1942.

8. The Court finds that in so far as the claims entitled to priority are concerned, including those of taxing units, and such landowners' royalties as the Court may determine to be entitled to priority or status as secured claimants, that the same will be paid in full under the revised plan of arrangement.

AS CONCLUSIONS OF LAW FROM THE  
FOREGOING FINDINGS, THE COURT  
CONCLUDES:

That said revised plan of arrangement should be confirmed.

Now, Therefore, It Is Ordered:

1. That said revised plan of arrangement be and the same is hereby confirmed;

2. That V. W. Erickson be and he hereby is designated as [65] disbursing agent or officer for this Court for the purpose of making the necessary disbursements and distributions under such revised plan of arrangement, including the payment of costs and expenses of *administricion*, priority claims, the receipt and distribution of the stock of the new corporation, El Segundo Oil Company, to

the holders of unsecured claims allowed herein, and for the purpose of doing such other things as may be necessary as the agent of this Court to carry into effect such revised plan of arrangement, hereby confirmed;

3. That said Debtor corporation and said V. W. Erickson, as Receiver of the said Debtor corporation, are hereby directed to execute as of December 17, 1942, an assignment of all oil and gas leases and a bill of sale to all personal property, and such other instruments and conveyances as may be necessary to transfer title to all of the assets of said Debtor corporation to said El Segundo Oil Company, subject to the liens of the claims of secured creditors, as set forth in the revised plan of arrangement, and subject to the rights of participating percent holders, as set forth in the order of this Court of December 5, 1942, determining the rights of per cent holders, and to surrender as of December 17, 1942, possession of all of such assets of the Debtor corporation to said El Segundo Oil Company;

4. That the Debtor or any party in interest, including the new corporation the El Segundo Oil Company, shall have the right to object to the allowance of any claims filed herein, and such claims so objected to shall participate in the revised plan of arrangement hereby confirmed only on the basis of the amount of such claims as may be finally allowed by this Court;

5. That said new corporation, El Segundo Oil Company, shall have the right to reject any and

all executory contracts, including the contract of R. P. Cooney for the payment to him of two per cent of the gross amount received from the Standard Oil Company for the sale of oil to it, and the contract of K. O. Gjerset;

6. That the Western Mesa Oil Corporation shall grant an [66] option, as of December 17, 1942, to J. R. McKinnie, to purchase all of the shares of capital stock of the new corporation which said Western Mesa Oil Corporation has acquired, substantially upon the terms and conditions as set forth in paragraphs VIII and IX of the revised plan of arrangement. It is contemplated that the Western Mesa Oil Corporation will stand ready, able and willing to purchase from the unsecured creditors all of the capital stock of the new corporation that may be offered to it, and that the option shall only apply to all of those shares of capital stock which the Western Mesa Oil Corporation is able to purchase from the unsecured general creditors.

It Is Further Ordered that this Court shall retain jurisdiction until the provisions of this revised plan of arrangement have been fully performed, including.

(a) The issuance of capital stock by the new corporation to the unsecured creditors, their assigns or nominees;

(b) The issuance of notes to the Western Mesa Oil Corporation for moneys advanced to such new corporation by said Western Mesa Oil Corporation; and

(c) The exercise or failure to exercise, within the required time, the option to said J. R. McKinnie, referred to in said revised plan of arrangement.

Dated this 17th day of December, 1942.

HUGH L. DICKSON,

Referee in Bankruptcy.

Approved as to form:

GRAINGER & HUNT.

By REUBEN G. HUNT,

Attorneys for the Debtor.

R. DECHTER,

Attorney for El Segundo Oil  
Company.

[Endorsed]: Filed Dec. 17, 1942. Hugh L. Dickson, Referee. C. M. Commins, Clerk CMC.

[Endorsed]: Filed Feb. 8, 1943. Edmund L. Smith, Clerk, by E. M. Enstrom, Jr., Deputy. [67]

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[Title of District Court and Cause.]

PROPOSED AMENDMENTS TO FINDINGS  
OF FACT

Come now the Western Mesa Oil Corporation and the El Segundo Oil Company and propose the following amendments to the proposed findings of fact submitted by Martin & Bowker:

1. On page 2, line 6, after the words "R. Dechter", insert the following:

"and the El Segundo Oil Company, the suc-

cessor in interest pursuant to the plan of arrangement of the debtor, Sovereign Oil Corporation, appearing also by its counsel, R. Dechter”

2. Insert on page 2, paragraph I, line 19, after the words “when due”, the following:

“that said lease provides that in the event the landowners desire to exercise a right of forfeiture for non-payment of royalties, they must give to the debtor, as lessee, notice in writing of intention to declare such forfeiture, unless such default is cured within thirty days from the date of the giving of such notice; that up to the date of the filing of the petition herein by the debtor, and up to the time of the hearing of the issues involved herein, between the debtor and the Western Mesa Oil Corporation and the El Segundo Oil Company, on the one hand, and the landowners, on the other hand, the landowners had at no time ever given any notice in writing, or otherwise, to the lessee of any intention to declare a forfeiture for nonpayment of royalty, and it was so stipulated by counsel for the landowners that no such notice had ever been given.”

3. Insert at the end of paragraph I on page 2, line 26, the following:

“That immediately after the filing of these proceedings by the debtor, an order to show cause was directed by the receiver to the various landowners, calling attention to the fact that certain license fees and certain taxes had

to be paid, and calling further attention to the fact that certain remedial work had to be done to maintain said wells on production and to prevent said production from being lost. That a hearing was held [68] thereon, at which said landowners were represented. That said receiver was instructed to pledge the credit of this estate for the purpose of making such necessary expenditures and for the purpose of doing such work in order to preserve such production from said well, and that neither at said time nor at any other time was there ever any intention expressed by the landowners of declaring a forfeiture of said lease or that said lease was in default, or that said lease was not in full force and effect.”

4. Insert at the end of paragraph III on page 3, line 13, the following:

“That there has been filed a claim as an unsecured creditor for such accrued royalties by said holders of landowners’ and overriding royalties.”

Dated: January 13, 1943.

Respectfully submitted,

R. DECHTER,

Attorney for Western Mesa  
Oil Corporation and El Se-  
gundo Oil Company.

[Endorsed]: Filed Jan. 14, 1943, Hugh L. Dickson, Referee. E. M. Commins BR.

[Endorsed]: Filed Feb. 8, 1943. Edmund L. Smith, Clerk, by E. M. Enstrom, Jr., Deputy. [69]

[Title of District Court and Cause.]

AMENDMENT TO PROPOSED FINDINGS OF  
FACT SUBMITTED BY H. L. WELCH ON  
BEHALF OF LANDOWNERS OF WELL  
No. 1

Come now the Western Mesa Oil Corporation and the El Segundo Oil Company and propose the following amendments to the proposed findings of fact submitted by H. L. Welch:

1. On page 1, line 32, after the words "R. Dechter", insert the following:

"and the El Segundo Oil Company, the successor in interest pursuant to the plan of arrangement of the debtor, Sovereign Oil Corporation, appearing also by its counsel, R. Dechter"

2. Insert on page 2, line 1, after the word "forfeiture", the following:

"by their acts and conduct both before and subsequent to the filing of the petition in bankruptcy herein"

3. Strike, commencing with the word "and" on page 2, line 29, to the end of page 2, and substitute the following:

"that at said time it was made known by the debtor to the landowners that they did not have sufficient funds with which to pay all royalties owing to date, but that they would endeavor to do so as soon as they were able to secure funds; that such checks for back royalties were accepted after such litigation had

been finally closed and terminated, and after said landowners knew that said debtor was unable to pay such landowners' royalties in full, and that such cashier's checks were accepted by the landowners on account of the landowners' royalties then owing. That on June 19, 1942, the debtor instituted these proceedings in bankruptcy."

4. Strike from paragraph II of the proposed findings, lines 7 to 9 on page 3, and insert the following:

"that said checks were received as payment on account of royalties then due and owing by the debtor to said landowners." [70]

5. Insert proposed amendments heretofore filed to the proposed findings of fact submitted by Martin & Bowker, Nos. 2, 3 and 4.

Dated: January 15, 1943.

Respectfully submitted,

R. DECHTER,

Attorney for Western Mesa  
Oil Corporation and El Se-  
gundo Oil Company.

[Endorsed]: Filed Jan. 18, 1943. Hugh L. Dickson, Referee. C. M. Commins, Clerk. HN.

[Endorsed]: Filed Feb. 8, 1943. Edmund L. Smith, Clerk. By E. M. Enstrom, Jr., Deputy. [71]

[Title of District Court and Cause.]

PETITION FOR LEAVE TO EXPEND FUNDS  
FOR THE BENEFIT OF THE ESTATE

The petition of R. P. Cooney respectfully shows:

On the 19th day of June, 1942, an original petition was filed by the above named debtor corporation in the above entitled proceeding in the above entitled Court for an arrangement between said debtor corporation and its creditors pursuant to the provisions of Chapter XI of the National Bankruptcy Act of 1898, as amended by the Chandler Act of 1938. Thereafter and on said 19th day of June, 1942, the said petition was approved by the above entitled Court and further proceedings in the administration of the estate were referred by the Court to Hugh L. Dickson, a Referee in Bankruptcy thereof. Thereafter and on the 22nd day of June, 1942, petitioner R. P. Cooney was appointed by the Court as Receiver of the debtor's estate, and thereafter and on the 23rd day of June, 1942, duly qualified. Ever since the 23rd day of June, 1942, the said R. P. Cooney has been and now is the duly appointed, qualified and acting Receiver of the debtor's estate.

On or about the 15th day of July, 1942, the Receiver expects to have paid into the estate the sum of approximately \$7900.00 by the Standard Oil Company of California as proceeds of the sale of Oil. The Receiver is confronted with the necessity of making certain expenditures in order to preserve and protect the estate during the pendency of the

arrangement proceedings. These proposed expenditures are as follows:

1. The debtor at the time of the commencement of the bankruptcy operated four oil wells in what is known as the El Segundo District, in Los Angeles County, under leases from landowners. These wells are now being operated by the Receiver with the permission of the above entitled Court. These wells are subject to the jurisdiction of the City of El Segundo, a municipal corporation. An ordinance of that city is in full force and effect wherein it is required that persons operating wells of a character similar to those now being operated by the Receiver must furnish to the city a satisfactory bond in the sum of \$5,000.00 for each well so operated. The condition of each of said bonds is that if the well is abandoned by the operator, the operator will satisfactorily clean up the well and the premises and put the premises, as far as is reasonably possible, back into their original *estate* before the well was drilled; and also will respond in damages for any injury to property caused by blowouts, etc.

Heretofore the debtor furnished such bonds to the city through the Hartford Accident and Indemnity Company, an insurance corporation, but this company lately withdrew from such bonds and there are no bonds furnished in order to comply with such ordinance. The City of El Segundo has granted to the Receiver until July 15, 1942, to furnish such bonds. The Receiver has carefully investigated the situation. The Hartford Accident and Indemnity

Company is unwilling to furnish any bonds. The National Automobile Insurance Co. has offered to furnish the required bonds for the four wells on the basis of a cash deposit with it of \$500.00 per well, as indemnification, plus the first annual premium of \$200.00, making a total of \$2200.00. [72] It is absolutely essential to the maintenance and continuation of the debtor's estate that such bonds be issued. Any person, such as a receiver, who does not comply with such ordinance is subject to a misdemeanor penalty of a fine or a jail sentence, or both.

2. The Receiver finds that the property in his possession and control, particularly the oil wells and their equipment, were not covered by adequate insurance at the time of the commencement of the proceedings herein. The amount of insurance at the time of the bankruptcy was \$20,000.00 and was about to expire. The Receiver, out of an abundance of caution and for the protection and preservation of the estate and in the light of the apparent values of the property involved, has caused \$50,000.00 of insurance to be placed. This covers fire, personal liability, property damage, etc. The premium necessary to be paid at this time to hold this insurance aggregates \$500.00.

3. The Receiver also furnished a surety bond in the sum of \$25,000.00 as required by the Court order. The first year's premium on this bond is \$250.00.

4. In order to cut down labor and fuel expense, the Receiver found, after investigation, that he

could effect substantial savings in this direction if he secured and installed four electric motors and pumps for use at the wells. This will require an expenditure of not to exceed \$600.00. This step will result in reducing the man power from four operators to two. Operators are now receiving approximately \$175.00 a month each. The gas requirements will also be lessened. Under the pending system, the boilers are being run 24 hours a day 30 days a month. Under the proposed new arrangement, this will be cut down to ten days a month on the average of less than 24 hours a day.

5. In the current operations of the wells the Receiver will require the following:

(a) Tretolite for dehydration purposes .....	\$ 205.40
(b) Rent of office in Los Angeles, per month.....	35.00
(c) Pulling wells .....	165.00
(d) Boring under road .....	100.00
(e) Power and light, per month .....	115.00
(f) Richfield Oil Co., gas for operations.....	180.00
(g) Telephone service, per month .....	20.00
(h) Repairing pump .....	111.87
(i) Payroll to July 15, 1942, approximately.....	326.26

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Total.....\$1,258.53

Note: Some of these figures are approximate.

6. The National Supply Company holds conditional sales contracts upon all the pumping equipment and all the tubular equipment. The balance due on these contracts is approximately \$152,000.00. The debtor has been making payments to the National Supply Company on the basis of 53 $\frac{1}{4}$ % of the gross proceeds from the production of what is

[73] known as the No. 1 well. This interest in such gross proceeds has been transferred by the debtor to the National Supply Co. by way of security until such time as the National Supply Company is fully paid. The current payment under this arrangement is approximately \$2241.00. Under normal conditions this \$2241.00 would be paid out of the money so to be received as aforesaid from the Standard Oil Company.

7. These wells are subject to landowners royalties. Under normal conditions the landowners would be entitled to the payment of approximately \$1449.00 out of the money to be received from the Standard Oil Company.

8. J. D. Rush holds herein a conditional sales contract or a chattel mortgage upon two derricks. The arrangement between the debtor and Rush has been for the payment of \$150.00 per month on this obligation.

9. R. P. Cooney holds a conditional sales contract upon a derrick, upon which there is now owing, in order to bring it up to date, the sum of approximately \$150.00.

10. R. P. Cooney holds a contract with the debtor wherein and whereby he receives a 2% commission upon all oil sold to the Standard Oil Company. There is due upon this contract at this time approximately \$156.00.

11. The American Pipe and Steel Corporation holds conditional sales contracts on ten tanks and four gas traps, all of which are necessary in the carrying on of the debtor's business and the opera-

tion of the wells. Under normal conditions the debtor was required to pay this company approximately \$500.00 a month.

These items total approximately \$9,454.52. The money coming from the Standard Oil Company is insufficient to meet them all at this time. It is vitally necessary, in order to protect and preserve the debtor's estate, the operating expenses above specified, and particularly the furnishing of such bonds, viz:

1. Bonds .....	\$2,200.00
2. Insurance .....	500.00
3. Receiver's bond premium .....	250.00
4. Four electric motors and pumps, approximately	600.00
5. (a)-(i) Tretolite, etc. ....	1,258.53
	<hr/>
	\$4,808.53

be taken care out of the money so to be received from the Standard Oil Company, even though the other payments above specified are deferred until later. The Receiver is of the opinion that if these operating expenses are now taken care of, he can operate these wells successfully at a minimum expense and in a short time be able to meet these other requirements, either wholly or partially, to a reasonable extent and eventually get the estate in such a condition that a satisfactory arrangement for the future can be effected between the debtor corporation and all of its creditors.

The Receiver is not advised of the exact contract relations between the debtor corporation and National Supply Company, the landowners, the American Pipe and Steel Corporation, and J. D. Rush.

They should be required to appear herein and set forth the exact nature and character of their contracts and claims against the debtor estate. The names of the landowners, so far as the Receiver has been able to ascertain are set forth in "Exhibit A" attached hereto and made a part hereof. [74]

The schedules of the debtor filed herein show total liabilities of \$226,600.82, consisting of:

Taxes .....	\$ 3,516.11
Secured creditors .....	165,382.48
Unsecured creditors .....	53,101.31
Landowners' royalties .....	4,600.92

and total assets of \$147,650.00, consisting of:

Oil and Gas Leases .....	\$145,000.00
Cash .....	100.00
Royalty interest .....	1,000.00
Crude oil .....	900.00
Office furniture .....	500.00
Deposits .....	150.00

The Receiver is endeavoring to work out an economy program whereby the costs of operation can be greatly reduced over what they were at the time of bankruptcy. If he has the cooperation of all of the parties interest to this end, he is of the opinion that he can operate the four wells upon the basis of producing between two and three thousand dollars net a month for the benefit of the estate, out of which can be made reasonable payments in proportion to the equities involved to the secured, priority and unsecured creditors. The four wells are now producing a little less than 300 barrels of oil per day.

Wherefore, Receiver prays that a time and place be fixed for the hearing of this petition and that due notice thereof be given to the parties herein mentioned; that an order issue herein directing said persons to show cause at the time and place of the hearing why the Court should not grant this petition and authorize the Receiver to make the operating expenditures specified by him in this petition even though he will be unable to meet, at this time, the other requirements set out in said petition; that upon such hearing an appropriate order be made; and for general relief.

Dated this 7th day of July, 1942.

**R. P. COONEY**

Receiver

**GRAINGER & HUNT**

By **REUBEN G. HUNT**

Attorneys for Receiver [75]

### EXHIBIT A

[Printer's Note: Exhibit A attached here is not reproduced as it is identical with Exhibit A minus the detailed list of stockholders of Well No. 2\*, which is set out in full starting at page 55 of this printed record.]

[Verified].

[Endorsed]: Filed Jul 8, 1942. Hugh L. Dickson, Referee. E. M. Commins, Clerk CMC

[Endorsed]: Filed Feb. 8, 1943. Emund L. Smith, Clerk, by E. M. Enstrom, Jr., Deputy. [78]

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Upon consideration of the petition filed herein by R. P. Cooney, Receiver of the estate of the above named debtor in proceedings herein under Chapter XI of the Bankruptcy Act for an arrangement between the debtor and its creditors, for an order authorizing him to make certain expenditures in connection with his operation of the debtor's business,

It Is Hereby Ordered that The National Supply Company, American Pipe and Steel Corporation, J. D. Rush, and the Landowners of Wells Nos. 1, 2, 3 and 4 of the debtor as specified in said petition, be and they are, and each of them is, hereby required to appear before the undersigned Referee in Bankruptcy, 343 Federal Building, Temple and Spring Streets, Los Angeles, California, on Tuesday, July 14, 1942, at 2 P.M., then and there to show cause why said petition should not be granted.

It Is Hereby Further Ordered that such petition and this order to show cause may be served by the Receiver upon said parties by mailing copies of the same to said persons through the Los Angeles Post Office on or before Friday, July 10, 1942.

Dated this 8th day of July, 1942.

HUGH L. DICKSON

Referee in Bankruptcy

[Endorsed]: Filed July 8, 1942. Hugh L. Dickson, Referee. E. M. Commins, Clerk, CMC.

[Endorsed]: Filed Feb. 8, 1943. Edmund L. Smith, Clerk by E. M. Enstrom, Jr., Deputy. [79]

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[Title of District Court and Cause.]

### AFFIDAVIT OF MAILING

State of California,

County of Los Angeles.—ss.

Helen Hooper, being first duly sworn, deposes and says:

That affiant is a citizen of the United States over the age of eighteen years and is not a party to the within action.

On July 10, 1942, affiant deposited in the United States Mail at Los Angeles, California, envelopes addressed to the hereinafter listed parties, each containing true copies of the Order to Show Cause and the Petition for Leave to Expend Funds for the Benefit of the Estate, heretofore filed herein, and which envelopes were sealed and postage thereon prepaid. Said envelopes were addressed to the following:

The National Supply Company  
American Pipe and Steel Corporation

Landowners Committee of landowners of Well #1 as listed in "Exhibit A" of said petition

Landowners of Well #2 as per list furnished by their representative, Bank of America, Inglewood Branch

Landowners of Well #3 as per "Exhibit A" of said petition

Landowners of Well #4 as per "Exhibit A" of said petition.

HELEN HOOPER

Subscribed and sworn to before me this 14th day of July, 1942.

[Seal] ADELE O. CARVER,

Notary Public in and for the County of Los Angeles, State of California

[Endorsed]: Filed July 14, 1942. Hugh L. Dickson, Referee. C. M. Commins, Clerk, JB.

[Endorsed]: Filed Feb. 8, 1943. Edmund L. Smith, Clerk by E. M. Enstrom, Jr., Deputy. [80]

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[Title of District Court and Cause.]

ORDER GRANTING PETITION FOR LEAVE  
TO EXPEND FUNDS FOR THE BENEFIT  
OF THE ESTATE

R. P. Cooney, the duly appointed, qualified and acting Receiver of the estate of the above named debtor corporation in proceedings herein under

Chapter XI of the National Bankruptcy Act, as amended by the Chandler Act of 1938, for an arrangement between the said debtor corporation and its said creditors, having filed herein his petition for leave to expend funds for the benefit of the estate; and the undersigned Referee in Bankruptcy having, upon the filing of said petition, issued herein an order directing interested parties to appear before the Court at a time and place specified then and there to show cause, if any there be, why the said petition should not be granted,

And the said petition coming on regularly for hearing before said Referee this 14th day of July, 1942, the Receiver appearing in person; Reuben G. Hunt, of Grainger & Hunt, appearing as counsel for the Receiver; R. Dechter, appearing as counsel for J. D. Rush; George T. Goggin appearing as counsel for American Pipe and Steel Corporation; A. R. Tuthill, of Flint & Mackay, appearing as counsel for National Supply Company, and various holders of landowners royalties appearing in person or by counsel, and all parties having been heard, and the Court having been fully advised in the premises, and no adverse interest being represented so far as the purposes of said petition are concerned, with the exception of the National Supply Company and its objection having been heard and considered by [81] the Referee and overruled, and except the holders of certain landowners royalties, and their objection having been considered by the Referee and overruled, and the matter having been submitted to the Referee for decision,

It Is Hereby Ordered that the said petition be and the same is hereby granted, and that the said Receiver be and he is hereby authorized to make the expenditures specified in the petition as being necessary for the preservation of the estate, such expenditures not to exceed \$5,000.00 without further order of the Court.

It Is Hereby Further Ordered that the said Receiver shall prepare and file with the Court on or before Friday, August 7, 1942, a report of his activities in the meantime and shall send a copy of said report to all the parties to whom a copy of the said petition was mailed prior to this hearing on June 14, 1942.

It Is Hereby Further Ordered that this matter be and the same is hereby continued to Thursday, August 13, 1940, at 2 P.M., for further proceedings in connection with the receivership and for the consideration of any other matters that may be brought on for attention by the Court at that time.

Dated this 14th day of July, 1942.

HUGH L. DICKSON

Referee in Bankruptcy

Approved as to form:

GEORGE T. GOGGIN

Attorney for American Pipe  
and Steel Corporation

FLINT & MACKAY

By ARCH R. TUTHILL

Attorneys for National Sup-  
ply Company

R. DECHTER

Attorney for J. D. Rush

GRAINGER & HUNT

By KYLE Z. GRAINGER

Attorneys for Receiver

[Endorsed]: Filed July 22, 1942. Hugh L. Dickson, Referee. C. M. Commins, Clerk, CMC.

[Endorsed]: Filed Feb. 8, 1942. Edmund L. Smith, Clerk by E. M. Enstrom, Jr, Deputy. [82]

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[Title of District Court and Cause.]

PETITION FOR REVIEW OF REFEREE'S  
ORDER AS TO THE PROPER STATUS  
OF CLAIMS OF LANDOWNERS' ROYAL-  
TIES FROM SOVEREIGN NUMBER 2  
AND NUMBER 4 WELLS IN THE EL  
SEGUNDO DISTRICT

To the Honorable Hugh L. Dickson, Referee in  
Bankruptcy for the Above Named Debtor  
Estate:

The petition of El Segundo Oil Company and the  
Western Mesa Oil Corporation respectfully shows  
as follows:

## I.

That the El Segundo Oil Company is the successor in interest to the debtor above named, pursuant to a revised plan of arrangement approved by the above Court, the order approving said revised plan having now become final; that under said revised plan of arrangement the El Segundo Oil Company is given the right to object to the allowance or disallowance of any claim; that your petitioner Western Mesa Oil Corporation is a party in interest in the above proceeding, being interested therein both as a creditor of the debtor and as a stockholder of the El Segundo Oil Company.

## II.

That on or about December 9, 1942, a petition was filed by the debtor above named and by V. W. Erickson, as receiver of the debtor, and by the Western Mesa Oil Corporation, asking this court to determine the rights and status of the holders of landowners' and overriding royalties. That said petition came on for hearing on December 17, 1942, at the hour of ten o'clock a.m. That at said hearing the holders of landowners' royalties and overriding royalties on wells known as Sovereign No. 2 and Sovereign No. 4, appeared by their attorneys, Martin & Bowker, and the holders of landowners' and [83] overriding royalties on well No. 1, or "El Segundo Block 31 Community Oil and Gas Lease" appeared by their attorney, H. L. Welch. Evidence was duly heard as to the status of the holders of such landowners' royalties and overriding royalties

in all three wells. The matter was submitted and thereafter an order was entered on the 20th day of January, 1943, as to Sovereign No. 2 and No. 4 wells in the El Segundo District of the County of Los Angeles, a copy of which order is attached hereto and marked Exhibit A.

### III.

That said order of January 20, 1943, is erroneous for the following reasons:

1. That said order is contrary to law.
2. That said order is contrary to the evidence, and the evidence is insufficient to sustain said order.
3. That Finding No. II of said order is contrary to the evidence in that the evidence will show, among other things, that no forfeiture could be declared without giving a thirty-day notice in writing of intention to declare a forfeiture, and that at no time was any intention of declaring a forfeiture ever given; that by accepting royalties from the receiver, said landowners did waive their claim of any right to exercise a forfeiture; that by the conduct of said landowners and overriding royalty owners, they lulled the debtor into a sense of security that no forfeiture was ever claimed; that no prior claim was ever filed by said landowners and overriding royalty owners, but on the contrary an unsecured claim was filed by said landowners and overriding royalty owners. The evidence will further show that the landowners, by their conduct, waived the "time of the essence" provision of the lease in that the landowners acquiesced in a course

of conduct where royalties were not and had not been paid on time for a long period; that no notice was ever given by the lessors to the lessee reinstating the provision that time was of the essence; that the records of this Court will show that the receiver, by reason of the [84] conduct on the part of the lessors, expended considerable money in developing and improving said leased premises after the alleged right to declare a forfeiture had accrued without any indication being made by the lessors that the lessee had forfeited its rights and that the lease was no longer in force and effect; that said lessors, with full knowledge that there were back royalties unpaid, continued to receive current royalties from the receiver in the same manner as if said lease were in full force and effect; that the acceptance of royalties prior to bankruptcy by the lessors, after defaults, was likewise a waiver of any right to declare a forfeiture.

4. That paragraph I of the Conclusions of Law is not supported by the findings of fact nor by the evidence in this case, but is contrary to the evidence as well as contrary to law. That it is immaterial whether such right of forfeiture was waived either before or after the filing of the petition in bankruptcy, or both; that after the landowners, by their conduct with the receiver, waived their right of forfeiture, the receiver certainly represents the creditors and such waiver would redound to the interests of such creditors.

5. That paragraph II of the Conclusions of Law

is contrary to law and is not supported by the evidence or the findings of fact.

6. That paragraph III of the Conclusions of Law is not supported by the findings of fact, but is contrary to law and is contrary to the evidence, and not supported by the evidence.

#### IV.

In this connection, your petitioners request that there be transmitted to the Judge the following documents:

1. This petition for review;
2. The reporter's transcript on the hearing on said petition;
3. The petition for determination of rights and status of holders of landowners' royalties, on which said order was made which is sought to be reviewed hereunder;
4. The revised plan of arrangement; [85]
5. Findings of fact, conclusions of law, and order confirming revised plan of arrangement;
6. The proposed amendments to findings of fact, proposed by Martin & Bowker on Sovereign wells Nos. 2 and 4, dated January 13, 1943;
7. The proposed amendments to findings of fact, proposed by H. L. Welch on behalf of landowners of Well No. 1, otherwise described as El Segundo Block 31 Community Well, dated January 15, 1943.
8. Petition for leave to expend funds for the benefit of the estate, dated July 7, 1942, filed by the receiver; and the order to show cause, based thereon, directed to the National Supply Company, Amer-

ican Pipe & Steel Corporation, J. D. Rush, and the landowners of wells Nos. 1, 2, 3 and 4; the affidavit of service thereof; and the order made thereon, dated July 14, 1942, granting petition for leave to expend funds for the benefit of the estate.

Wherefore, your petitioners pray for a review of said order by the Judge, and that said order be vacated and set aside and the status of such holders of landowners' and overriding royalties be determined to be that of an unsecured general creditor.

EL SEGUNDO OIL COMPANY

and

WESTERN MESA OIL CORPORATION

By M. E. FRAZIER

President

Petitioners

R. DECHTER

Attorney for Petitioners [86]

State of California

County of Los Angeles—ss.

M. E. Frazier, being by me first duly sworn, deposes and says: that he is the President of El Segundo Oil Company and of Western Mesa Oil Corporation, the petitioners herein, and makes this verification for and on behalf of said petitioners, being familiar with the facts set forth therein; that he has read the foregoing petition for review, etcetera, and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information

or belief, and as to those matters that he believes it to be true.

M. E. FRAZIER

Subscribed and sworn to before me this 23d day of January, 1943.

[Seal] JESSIE DOLFIN

Notary Public in and for said County and State

[87]

EXHIBIT A

[Printer's Note: Exhibit A is not reproduced here, as it is identical with the "Findings of Fact and Conclusions of Law as to the Proper Status of Claims of Landowners' Royalties from Sovereign Number 2 and Number 4 Wells in the El Segundo District in the County of Los Angeles", which is set out in full starting at page 68 of this printed record.]

[Endorsed]: Filed Jan. 25, 1943. Hugh L. Dickson, Referee. C. M. Commins, Clerk, HN.

[Endorsed]: Filed Feb. 8, 1943. Edmund L. Smith, Clerk by E. M. Enstrom, Jr., Deputy [91]

[Title of District Court and Cause.]

PETITION FOR REVIEW OF REFEREE'S  
ORDER AS TO THE PROPER STATUS OF  
CLAIMS OF LANDOWNERS' ROYALTIES  
FROM "EL SEGUNDO BLOCK 31 COM-  
MUNITY OIL AND GAS LEASE"

To the Honorable Hugh L. Dickson, Referee in  
Bankruptcy for the Above Named Debtor Es-  
tate:

The petition of El Segundo Oil Company and  
the Western Mesa Oil Corporation respectfully  
shows as follows:

I.

That the El Segundo Oil Company is the suc-  
cessor in interest to the debtor above named, pur-  
suant to a revised plan of arrangement approved  
by the above Court, the order approving said re-  
vised plan having now become final; that under  
said revised plan of arrangement the El Segundo  
Oil Company is given the right to object to the  
allowance or disallowance of any claim; that your  
petitioner Western Mesa Oil Corporation is a party  
in interest in the above proceeding, being inter-  
ested therein both as a creditor of the debtor and  
as a stockholder of the El Segundo Oil Company.

II.

That on or about December 9, 1942, a petition  
was filed by the debtor above named and by V. W.  
Erickson, as receiver of the debtor, and by the  
Western Mesa Oil Corporation, asking this court

to determine the rights and status of the holders of landowners' and overriding royalties. That said petition came on for hearing on December 17, 1942, at the hour of ten o'clock a. m. That at said hearing the holders of landowners' royalties and overriding royalties on wells known as Sovereign No. 2 and Sovereign No. 4, appeared by their attorneys, Martin & Bowker, and the holders of landowners' and [92] overriding royalties on well No. 1, or "El Segundo Block 31 Community Oil and Gas Lease" appeared by their attorney, H. L. Welch. Evidence was duly heard as to the status of the holders of such landowners' royalties and overriding royalties in all three wells. The matter was submitted and thereafter an order was entered on the 20th day of January, 1943, as to said "El Segundo Block 31 Community Oil and Gas Lease", a copy of which order is attached hereto and marked Exhibit A.

### III.

That said order of January 20th, 1943, is erroneous for the following reasons:

1. That said order is **contrary to law.**
2. That said order is contrary to the evidence, and the evidence is insufficient to sustain said order.
3. That paragraph I of said findings of fact is contrary to the evidence in that the evidence will show that said cashier's checks were received on account of back royalty and in that the evidence will show that the debtor stated at the time that such payment on account was made that they were

without funds to pay said royalty in full, and that the holders of landowners' and overriding royalties nevertheless accepted such payment on account.

4. That paragraph II of said findings of fact is contrary to the evidence and the evidence is insufficient to support the same in that the evidence will show that the landowners and holders of overriding royalties did waive their right of forfeiture by accepting rentals on account after the alleged breaches had occurred, and by accepting current royalty payments from the receiver since the filing of the petition herein, and by filing an unsecured creditor's claim for the amount claimed by the landowners and holders of overriding royalties, and further, by the evidence showing that said lease requires a thirty day notice in writing of intention to declare a forfeiture and that at no time was any such notice ever given, and that the landowners and holders of overriding royalties by their conduct lulled the debtor [93] and the receiver into a sense of security that they were not exercising any right of forfeiture.

5. That said order is contrary to the evidence in that the evidence will show that the landowners, by their conduct, waived the "time of the essence" provision of the lease in that the landowners acquiesced in a course of conduct where royalties were not and had not been paid on time for a long period; that no notice was ever given by the lessors to the lessee reinstating the provision that time was of the essence; that the records of this Court will show that the receiver, by reason of the conduct on the part of the lessors, expended consider-

able money in developing and improving said leased premises after the alleged right to declare a forfeiture had accrued without any indication being made by the lessors that the lessee had forfeited its rights and that the lease was no longer in force and effect; that said lessors, with full knowledge that there were back royalties unpaid, continued to receive current royalties from the receiver in the same manner as if said lease were in full force and effect; that the acceptance of royalties prior to bankruptcy by the lessors, after defaults, was likewise a waiver of any right to declare a forfeiture.

6. That paragraph I of the conclusions of law is contrary to the evidence, and the evidence is insufficient to support the same in that the evidence will show that royalty payments were received on account after the alleged breach took place, and that royalty payments were received on account both before bankruptcy and after bankruptcy, and that no proceedings were ever taken by the landowners or overriding royalty owners to enforce a forfeiture or claim a forfeiture, and that checks were received from the receiver for the current month's royalties as they accrued, without objection and without claiming a forfeiture.

7. That paragraph II of the conclusions of law is contrary to law, is not supported by the findings or by the evidence, and is contrary to the evidence.

8. That paragraph III of the conclusions of law is contrary [94] to law, is not supported by the findings or by the evidence, and is contrary to the evidence.

IV.

In this connection, your petitioners request that there be transmitted to the Judge the following documents:

1. This petition for review;
2. The reporter's transcript on the hearing on said petition;
3. The petition for determination of rights and status of holders of landowners' royalties, on which said order was made which is sought to be reviewed hereunder;
4. The revised plan of arrangement;
5. Findings of fact, conclusions of law, and order confirming revised plan of arrangement;
6. The proposed amendments to findings of fact, proposed by Martin & Bowker on Sovereign wells Nos. 2 and 4, dated January 13, 1943;
7. The proposed amendments to findings of fact, proposed by H. L. Welch on behalf of landowners of Well No. 1, otherwise described as El Segundo Block 31 Community Well dated January 15, 1943;
8. Petition for leave to expend funds for the benefit of the estate, dated July 7, 1942, filed by the receiver; and the order to show cause, based thereon, directed to the National Supply Company, American Pipe & Steel Corporation, J. D. Rush, and the landowners of wells Nos. 1, 2, 3 and 4; the affidavit of service thereof; and the order made thereon, dated

July 14, 1942, granting petition for leave to expend funds for the benefit of the estate.

Wherefore, your petitioners pray for a review of said order by the Judge, and that said order be vacated and set aside and the status of such holders of landowners' and overriding royalties be determined to be that of an unsecured general creditor.

EL SEGUNDO OIL COMPANY  
and WESTERN MESA OIL  
CORPORATION

By M. E. FRAZIER  
President  
Petitioners

R. DECHTER

Attorney for Petitioners [95]

State of California

County of Los Angeles—ss.

M. E. Frazier, being by me first duly sworn, deposes and says: that he is the President of El Segundo Oil Company and of Western Mesa Oil Corporation, the petitioners herein, and makes this verification for and on behalf of said petitioners, being familiar with the facts set forth therein; that he has read the foregoing petition for review, etcetera, and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

M. E. FRAZIER

Subscribed and sworn to before me this 23d day of January, 1943.

[Seal] JESSIE DOLFIN

Notary Public in and for said County and State.

[96]

EXHIBIT A

[Printer's Note: Exhibit A is not reproduced here as it is identical with "Findings of Fact and Conclusions of Law as to the Proper Status of Claims of Landowners' Royalties from 'El Segundo Block 31 Community Oil and Gas Lease'," which is set out in full at page 72 of this printed record.]

[Endorsed]: Filed Jan 25, 1943 Hugh L. Dickson, Referee C. M. Commins, Clerk HN.

[Endorsed]: Filed Feb 8, 1943. Edmund L. Smith, Clerk By E. M. Enstrom, Jr., Deputy. [100]

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United States District Court, Southern District  
of California Central Division

No. 40,852-B

In the Matter of

SOVEREIGN OIL CORPORATION, a corporation,  
Debtor.

Debtor.

MEMORANDUM OPINION AND ORDER

Petition for review of referee's orders.

Upon this review, there is only one question to

be decided, to-wit: was there a waiver of the landowners' right of forfeiture before the filing of the petition in bankruptcy? Such question was properly certified by the referee. Under the evidence there was no such waiver by the respondents. *Silva v. Campbell*, 84 Cal. 420; *Alden v. Mayfield*, 164 Cal. 6; *Del Toro v. Juncos Central Co.*, 276 F. 894; *In re Wise Shoe Co.*, 26 F.S. 762; 109 A.L.R. 1269 and cases cited. The rule is concisely stated in A.L.R., *supra*, as follows: "Where a forfeiture is based upon the nonpayment of rent, the acceptance of rent accruing prior to that upon nonpayment of which the lessor relies does not constitute a waiver."

Petitioners' contentions that after bankruptcy there was a waiver of the right of forfeiture are beside the question. The plan itself (proposed by debtor) is the answer to such contentions. Therein it is provided that [101] if there was no waiver of the right of forfeiture prior to the filing of the bankruptcy petition, then the landowners' royalties shall be paid in full, in the same manner as priority claims. If there was such waiver prior to the filing of the bankruptcy proceedings, then they were to be "treated the same as those in the class of unsecured creditors." The plan further provides (in the next sentence) that if any controversy arises as to the "proper status of such claims" then the same shall be determined by the bankruptcy court. This clearly refers to a determination based upon whether or not there was a waiver before the bankruptcy proceedings. A controversy

did arise. The referee determined that there was no waiver, and that the status of the claims should be and was that of priority claims. Furthermore, the record discloses that at least as to well number one the landowners refused to acquiesce in the plan of arrangement if by so-doing there would be a waiver of the right of forfeiture.

The referee's orders should be upheld. His findings are amply supported by the evidence and his conclusions sustained by the law.

This court overrules petitioners' objections, adopts the referee's findings and conclusions, and confirms the order reviewed. Respondents may have judgment for costs upon review.

Dated: June 22, 1943.

BEAUMONT

J

Judgment entered Jun 22 1943. Docketed Jun 22 1943 C. O. Book 18 Page 15. Edmund L. Smith, Clerk, By R. B. Clifton, Deputy.

[Endorsed]: Filed June 22, 1943. [102]

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[Title of District Court and Cause. ]

NOTICE OF APPEAL

Notice Is Hereby Given that Western Mesa Oil Corporation and El Segundo Oil Company do hereby appeal to the Circuit Court of Appeals for the Ninth Circuit from the order of the above entitled Court dated June 22, 1943, affirming an order of

the Referee in Bankruptcy dated January 20, 1943, determining that the proper status of the claims of the holders of landowners' royalties from Sovereign Wells Nos. 2 and 4 in the El Segundo District of the County of Los Angeles is that of priority claims, and that the claimants are entitled to be paid in the same manner as priority claimants; and likewise affirming an order of the Referee in Bankruptcy dated January 20, 1943, determining that the status of the claims of the holders of landowners' royalties from "El Segundo Block 31 Community Oil and Gas Lease" is that of priority claims, and that the claimants are entitled to be paid in the same manner as priority claimants, which order of the District Court was entered and docketed on June 22, 1943, in C. O. Book 18, page 15, records of the Clerk of the above entitled Court.

[103]

Dated: July 12, 1943.

R. DECHTER

Attorney for Western Mesa  
Oil Corporation and El Se-  
gundo Oil Company

7-20-43 Mailed copy to designated attorneys.

TH

[Endorsed]: Filed Jul 19, 1943. [104]

ROYAL INDEMNITY COMPANY

Head Office: New York. A New York Corporation  
A Stock Company

Bond No. S-197686

[Title of District Court and Cause.]

COST BOND ON APPEAL

Know All Men by These Presents:

That We, Western Mesa Oil Corporation and El Segundo Oil Company, as Principals, and Royal Indemnity Company, as Surety, are held and firmly bound unto Sovereign Oil Corporation, Debtor, in the full and just sum of Two Hundred Fifty and No/100 dollars (\$250.00), to be paid to the administrators or assigns; to which payment truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 16th day of July, 1943.

Whereas, on June 22, 1943, an order was entered by the Honorable United States District Court for the Southern District of California, Central Division, affirming an order of Hugh L. Dickson, Referee in Bankruptcy dated January 20, 1943, determining that the proper status of the claims of holders of landowners' royalties from Sovereign Wells No. 2 and 4 in the El Segundo District of the County of Los Angeles, is that of priority claims, and that the claimants are entitled to be paid in the same manner as priority claimants, and

Whereas, said order also affirmed an order of said Referee dated January 20, 1943, determining that the status of the claims of holders of landowners' royalties from "El Segundo Block 31 Community Oil and Gas Lease" is that of priority claims, and that the claimants are entitled to be paid in the same manner as priority claimants, and

Whereas, an appeal is being taken by Western Mesa Oil Corporation and El Segundo Oil Company to the United States Circuit Court of Appeals for the Ninth Circuit from such order of the United States District Court, Southern District of California, Central Division, dated June 22nd, 1943.

Now the Condition of the Above Obligation is Such, That if the said Western Mesa Oil Corporation and El Segundo Oil Company shall prosecute their writ of appeal to effect and answer all damages and costs if they fail to make their plea good, then the above obligation will be void; else to remain in full force and virtue. [105]

WESTERN MESA OIL CORPORATION,

By M. E. FRAZIER.

EL SEGUNDO OIL COMPANY

By M. E. FRAZIER

Principals

[Seal]

ROYAL INDEMNITY COMPANY

By E. L. COLE

Attorney-in-Fact

I hereby approve the foregoing.

Dated this 19th day of July, 1943.

C. E. BEAUMONT

District Judge

Examined and recommended for approval as provided in rule 29.

R. DECHTER

Attorney

State of California,

County of Los Angeles—ss.

On this 16th day of July in the year 1943, before me, S. P. Gage, a Notary Public in and for the County and State aforesaid, personally appeared E. L. Cole known to me to be the person whose name is subscribed to the within instrument and known to me to be the Attorney-in-Fact of Royal Indemnity Company and acknowledged to me that he subscribed the name of the said Company thereto as principal, and his own name as Attorney-in-Fact.

[Seal]

S. P. GAGE,

Notary Public in and for said  
County and State.

My Commission Expires July 1, 1945.

State of California,

County of Los Angeles—ss.

On this 17th day of July, A. D., 1943, before me, Jessie Dolfin, a Notary Public in and for said County and State, personally appeared M. E. Frazier, known to me to be the President of the Western Mesa Oil Corporation, the Corporation that executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal]

JESSIE DOLFIN,

Notary Public in and for said  
County and State.

State of California,

County of Los Angeles—ss.

On this 17th day of July, A. D., 1943, before me, Jessie Dolfin, a Notary Public in and for said County and State, personally appeared M. E. Frazier, known to me to be the President of the El Segundo Oil Company the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal]

JESSIE DOLFIN

Notary Public in and for said  
County and State [106]

[Title of District Court and Cause.]

DIRECTIONS TO CLERK OF THE DISTRICT  
COURT FOR NOTIFICATION OF FILING  
OF NOTICE OF APPEAL AND MAILING  
COPIES THEREFOR TO ALL PARTIES  
TO THE ORDER, OTHER THAN THE  
PARTIES TAKING THE APPEAL

To Edmund L. Smith, Clerk of the above entitled  
Court:

Pursuant to the provisions of Rule 73b of the new  
Rules of Civil Procedure, you are hereby notified  
to give notice by mail of the filing of the appeal to  
the following parties to the order, other than the  
parties taking this appeal, or to their counsel of  
record, as follows:

H. L. Welch, Esq. (On behalf of certain land-  
owners)

1114 Quinby Building  
Los Angeles, California

Messrs. Martin & Bowker (On behalf of cer-  
tain landowners)

9945 Commerce Avenue  
Tujunga, California

Allan A. McCray,

C/o Britton Bowker, Attorney  
9945 Commerce Avenue  
Tujunga, California

Dated: July 12, 1943.

R. DECHTER,

Attorney for Appellants West-  
ern Mesa Oil Corporation  
and El Segundo Oil Com-  
pany.

[Endorsed]: Filed July 19, 1943 [107]

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[Title of District Court and Cause.]

STATEMENT OF POINTS UPON WHICH AP-  
PELLANTS INTEND TO RELY, ON AP-  
PEAL

1. That said order of the District Judge is con-  
trary to law;
2. That the said District Judge erred in denying  
the petitions for review of these appellants and af-  
firming the orders of the Referee in determining  
that said landowners were entitled to the status  
of priority claimants and entitled to be paid as  
such;
3. That the District Judge erred in failing to  
determine that respondents waived any right to  
claim any status as secured or prior claimants, by  
filing unsecured creditors' claims herein;
4. That the District Judge erred in failing to  
hold that any right of forfeiture by such landowners  
was waived by their acts and conduct, in that the  
evidence will show that the landowners and holders  
of overriding royalties, with knowledge of defaults,  
accepted rent after such defaults accrued, both from

the debtor prior to the filing of the proceedings in the above entitled Court, and from the receiver subsequent thereto, and in that the evidence will show that by their conduct they indicated and led the debtor, as well as the receiver, to believe that they recognized the lease as being in full force and effect, and [108] that they never took any overt act or steps to exercise any right of forfeiture;

5. That the District Judge erred in failing to hold that said landowners were estopped from claiming to have any right of forfeiture and from asserting any right to the status of a priority or secured claimant;

6. That the District Court erred in finding that the landowners refused to acquiesce in the revised plan of arrangement, if by so doing there would be a waiver of the right of forfeiture, in that there is no evidence of any kind to support such finding and in that the evidence will clearly show that the landowners received payments of royalties after their alleged right to forfeiture had accrued, without exercising such right, but on the contrary leading the debtor and the receiver, and the successor of the debtor and receiver to believe that said lease was in full force and effect, and by permitting the receiver to act under said lease as if such right of forfeiture had been waived and abandoned;

7. That the District Court erred in failing to hold that the El Segundo Oil Company, as successor to the debtor and receiver, and the Western Mesa Oil Corporation, had the right to object to any claims on any grounds available to them under the law;

8. That the District Court erred in failing to consider the objection of the receiver, the predecessor in interest of the El Segundo Oil Company, and the Western Mesa Oil Corporation, as being in the nature of declaratory relief for the purpose of declaring the status of the claims of landowners and overriding royalties, and in failing to give a liberal construction to such petition to determine the status of such claimants of landowners' and overriding royalties;

9. That the District Court erred in holding and determining that the objections to the claims of landowners' and overriding royalties were limited to the acts and conduct of the landowners and overriding royalty holders before the commencement of the proceedings in the [109] bankruptcy court, and further erred in disregarding and rejecting the evidence offered of acts and conduct of such claimants subsequent to the commencement of such proceedings.

Dated: July 19, 1943.

R. DECHTER,

Attorney for appellants El  
Segundo Oil Company and  
Western Mesa Oil Corpora-  
tion

[Endorsed]: Filed Jul. 20, 1943. [110]

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF RECORD  
ON APPEAL

Appellants herein designate the entire record before the District Court, and embracing the following:

1. Debtor's petition under Chapter XI of the Bankruptcy Act;

2. Order appointing V. W. Erickson as receiver herein;

3. Petition of the receiver and Western Mesa Oil Corporation of December 9, 1942, for determination of the rights and status of holders of landowner's royalties and overriding royalties; and the order to show cause issued thereon, dated December 10, 1942;

4. The reporter's transcript on the hearing on said petition, together with all exhibits offered directly and by reference, including receiver's exhibits 1 to 3, inclusive, and receiver's exhibits by reference, including, to-wit: the claims of the Edlou Company, et al., for \$1,072.94, which is on behalf of the landowners in Well No. 4; Edlou Company for \$1,346.55 on behalf of the landowners in Community Lease No. Two-B; A. A. McCray, for holders of overriding royalties in El Segundo Community Lease No. Four-A, \$422.85; and A. A. McCray, for holders of overriding royalties in El Segundo Community Lease No. [111] Two-B, \$149.88 (Rep. Tr. p. 7, lines 6 to 13); and claim filed by A. A. McCray, Wm. H. Ramsaur and

F. R. C. Fenton, in the sum of \$2,887.58 on Well No. 1 (Rep. Tr. p. 8, lines 17 to 21, and p. 9, lines 5 to 7);

5. The findings of fact, conclusions of law, and orders of the Referee determining the status of landowners' royalties, dated January 20, 1943 (being two orders);

6. The revised plan of arrangement and application to confirm the same, dated December 7, 1942;

7. The findings of fact, conclusions of law, and order confirming revised plan of arrangement, dated December 17, 1942;

8. The proposed amendments to findings of fact, proposed by Martin & Bowker on Sovereign Wells Nos. 2 and 4, dated January 13, 1943;

9. The proposed amendments to findings of fact, proposed by H. L. Welch on behalf of landowners of Well No. 1, otherwise described as El Segundo Block 31 Community Well, dated January 15, 1943;

10. Petition for leave to expend funds for the benefit of the estate, dated July 7, 1942, filed by the receiver; and the order to show cause based thereon, directed to the National Supply Company, American Pipe & Steel Corporation, J. D. Rush, and the landowners of Wells No. 1, 2, 3 and 4; (the affidavit of service thereof; and the order made thereon, dated July 14, 1942, granting petition for leave to expend funds for the benefit of the estate;

11. The petitions for review (two) from the aforesaid two orders filed January 25, 1943;

12. The order of the District Judge dated June 22, 1943;

13. The certificates of Referee on review (two) from said two orders, one of said certificates being dated February 5, 1943, and the other undated;

14. The notice of appeal;

15. Directions to the Clerk for notification of filing of [112] notice of appeal and mailing copies thereof to all parties to the order;

16. Statement of points upon which appellants intend to rely on this appeal; and this designation of contents of record on appeal.

Dated: July 19, 1943.

R. DECHTER,

Attorney for appellants West-  
ern Mesa Oil Corporation  
and El Segundo Oil Com-  
pany, as successor to V. W.  
Erickson, as receiver of the  
above named debtor.

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AFFIDAVIT OF SERVICE BY MAIL—1013a,  
CCP

State of California,  
County of Los Angeles, ss.

G. A. Johnson, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the County of Los Angeles; that affiant is over the age of eighteen years and is not a party to the within and above entitled action; that affiant's business address is 633 Subway Terminal Building, Los Angeles, California; that on the 19th

day of July, 1943, affiant served the within Designation of Contents of Record of Appeal on the respondents in said matter; by placing a true copy thereof in an envelope addressed to the attorneys of record for said respondents, at the residence/office address of said attorneys, as follows: "H. L. Welch, Esq. 1114 Quinby Building, Los Angeles, California"; Messrs. Martin & Bowker, 9945 Commerce Ave., Tujunga, California; and Allen A. McCray, C/o Britton Bowker, Attorney, 9945 Commerce Avenue, Tujunga, California" and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, where is located the office of the attorney for the person by and for whom said service was made.

That there is delivery service by United States mail at the place so addressed or/and there is a regular communication by mail between the place of mailing and the place so addressed.

G. A. JOHNSON.

Subscribed and sworn to before me this 19th day of July, 1943.

[Seal]

JESSIE DOLFIN

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]: Filed July 20, 1943.

[Title of District Court and Cause.]

AFFIDAVIT OF ATTORNEY FOR APPELLANTS FOR EXTENSION OF TIME IN WHICH TO DOCKET RECORD ON APPEAL

United States of America  
Southern District of California  
Central Division—ss.

R. Dechter, being first duly sworn, upon oath deposes and says: that he is an attorney at law duly enrolled and authorized to practice in the District Court of the United States, Southern District of California, Central Division. That he is the attorney of record for Western Mesa Oil Corporation and El Segundo Oil Company, who have given notice of appeal to the United States Circuit Court of Appeals, Ninth Circuit, from a decision of the said District Court of the United States, Southern District of California, Central Division, with respect to the status of landowners' claims in the above entitled estate.

That under subdivision g of Rule 73 of the Federal Rules of Civil Procedure, the record on appeal should be docketed in the appellate court within forty days from the date of the notice of appeal. That such forty day period within which the record on appeal should be docketed will expire on the 28th day of August, 1943.

That practically all of the various documents which constitute the record on appeal have been furnished to the Clerk of the said District Court for certification. That included in said record, however, are [114] certain exhibits as to which

instructions have been given to the said Clerk for the photostating thereof, such photostatic copies to be made a part of the record. The Clerk has advised affiant that the time for filing the record on appeal and docketing the action should be extended. The Clerk has further advised affiant that war time mailing conditions are such that it would be unsafe not to have said time extended. Affiant anticipates that the record will be completed and ready for transmission to the United States Circuit Court of Appeals in San Francisco in sufficient time, but in the interests of insuring the timeliness of such filing and docketing and in accordance with the suggestion of the Clerk as above set forth, your affiant respectfully requests that this Court make an order extending the time within which the record on appeal shall be filed and docketed in the United States Circuit Court of Appeals, for the Ninth Circuit, for a period of thirty days from and after August 28th, 1943, or to and including the 28th day of September, 1943.

R. DECHTER

Subscribed and sworn to before me this 26th day of August, 1943.

JESSIE DOLFIN

Notary Public in and for said County of Los Angeles, State of California

[Endorsed]: Filed Aug 26, 1943. [115]

[Title of District Court and Cause.]

ORDER EXTENDING TIME IN WHICH  
TO DOCKET RECORD OF APPEAL

Upon reading and filing the affidavit of R. Dechter, attorney for Western Mesa Oil Corporation and El Segundo Oil Company, and good cause appearing therefor,

It is Ordered that the time within which said Western Mesa Oil Corporation and El Segundo Oil Company are required to file and docket the record on appeal in the above entitled proceeding, is hereby extended to and including the 28th day of September, 1943.

Dated this 26 day of August, 1943.

BEN HARRISON

United States District Judge

[Endorsed]: Filed Aug. 26, 1943. [116]

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[Title of District Court and Cause.]

AFFIDAVIT OF ATTORNEY FOR APPELLANTS FOR EXTENSION OF TIME WITHIN WHICH TO DOCKET RECORD ON APPEAL

United States of America  
Southern District of California  
Central Division—ss.

R. Dechter, being first duly sworn, deposes and says: That he is an attorney at law duly enrolled and authorized to practice in the District Court

of the United States, Southern District of California, Central Division.

That he is the attorney of record for Western Mesa Oil Corporation and El Segundo Oil Company, appellants herein, who have given notice of appeal to the United States Circuit Court of Appeals, Ninth Circuit, from a decision of the said District Court of the United States for the Southern District of California, Central Division, with respect to the status of landowners' claims in the above entitled estate.

That heretofore the time within which appellants are required to docket the record on appeal was extended to and including the 28th day of September, 1943. That the pressure of trial work and other important matters has made it impossible for your affiant to present to the Clerk all of the necessary documents which are a part of the transcript on appeal. That it appears that it will not be possible to [117] complete the record so as to enable it to be filed with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit on or before such 28th day of September, 1943. That your affiant respectfully requests that this Court make an order extending the time within which the record on appeal shall be filed and docketed in the United States Circuit Court of Appeals, for the Ninth Circuit, to and including the 28th day of October, 1943.

R. DECHTER

Subscribed and sworn to before me this 27th day of September, 1943.

[Seal]

JESSIE DOLFIN

Notary Public in and for said  
County and State.

[Endorsed]: Filed Sep 30, 1943. [118]

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[Title of District Court and Cause.]

ORDER EXTENDING TIME IN WHICH  
TO DOCKET RECORD ON APPEAL

Upon reading and filing the affidavit of R. Dechter, attorney for Western Mesa Oil Corporation, and El Segundo Oil Company, and good cause appearing therefor,

It Is Ordered that the time within which said Western Mesa Oil Corporation and El Segundo Oil Company are required to file and docket the record on appeal in the above proceedings, is hereby extended to and including the 28th day of October, 1943.

Dated this 28th day of September, 1943.

C. E. BEAUMONT

United States District Judge

[Endorsed]: Filed Sep 30, 1943. [119]

[Title of District Court and Cause.]

STIPULATION RE RECORD ON  
APPEAL

It Is Hereby Stipulated by and between the appellants and the respondents herein, through their respective counsel that the record on appeal in the above entitled case shall include:

1. Order appointing V. W. Erickson as receiver; and

2. Order of December 10, 1942 requiring the holders of landowners' royalties to show cause why their rights should not be determined.

It Is Further Stipulated that in transmitting item No. 6 designated by the appellants on review, to-wit, the revised plan of reorganization, the Clerk may omit the copy of the articles of incorporation of El Segundo Oil Company which is attached to said revised plan.

It Is Further Stipulated that the exhibits which are called for by the appellants' designation may be transmitted in their original form, and that the Court may make an order directing their transmission in original form.

It Is Further Stipulated that the proofs of debt of the Edlou Company and A. A. McCray and the claims filed by A. A. McCray, Wm. H. [120] Ramsaur and F. R. C. Fenton, which were introduced by reference and which were submitted to the Court by Referee's Supplemental Certificate on Review dated March 5, 1943, may be a part of the record on appeal and may be transmitted in original form, and that the Court may make an order

authorizing the transmission of such proofs of debt in their original form.

Dated this 18 day of October, 1943.

RAPHAEL DECHTER

By HARRY A. PINES

Attorney for Appellants

MARTIN & BOWKER

By BRITTON BOWKER

Attorneys for Certain Re-  
spondents

H. L. WELCH

Attorney for Certain Re-  
spondents

It Is So Ordered this 20th day of October, 1943.

C. E. BEAUMONT

United States District Judge

[Endorsed] Filed Oct 20, 1943. [121]

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[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO TRANSCRIPT  
OF RECORD

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 121 inclusive contain full, true and correct copies of: Debtor's Original Petition in Proceedings under Chapter XI of the Bankruptcy Act; Approval of Debtor's Petition and Order of Reference under Section 322 of the

Bankruptcy Act; Order Appointing New Receiver; Referee's Certificate on Review of Order Fixing Status of Claims of Landowners' Royalties from El Segundo Block 31 Community Oil and Gas Lease; Referee's Certificate on Review; Petition for Determination of Rights and Status of Holders of Landowners' Royalties; Order to Show Cause dated December 10, 1942; Findings of Fact and Conclusions of Law as to the Proper Status of Claims of Landowners' Royalties from Sovereign Number 2 and Number 4 Wells in the El Segundo District in the County of Los Angeles; Findings of Fact and Conclusions of Law as to the Proper Status of Claims of Landowners' Royalties from El Segundo Block 31 Community Oil and Gas Lease; Revised Plan of Arrangement; Findings of Fact, Conclusions of Law, and Order Confirming Revised Plan of Arrangement; Proposed Amendments to Findings of Fact; Amendment to Proposed Findings of Fact Submitted by H. L. Welch on Behalf of Landowners of Well No. 1; Petition for Leave to Expend Funds for the Benefit of the Estate; Order to Show Cause dated July 8, 1942; Affidavit of Mailing; Order Granting Petition for Leave to Expend Funds for the Benefit of the Estate; Petition for Review of Referee's Order as to the Proper Status of Claims of Landowners' Royalties from Sovereign Number 2 and Number 4 Wells in the El Segundo District; Petition for Review of Referee's Order as to the Proper Status of Claims of Landowners' Royalties from El Segundo Block 31 Community Oil

and Gas Lease; Memorandum Opinion and Order; Notice of Appeal; Cost Bond on Appeal; Directions to Clerk of the District Court for Notification of Filing of Notice of Appeal and Mailing copies thereof to all Parties to the Order, Other than the Parties Taking the Appeal; Statement of Points Upon Which Appellants Intend to Rely on Appeal; Designation of Contents of Record on Appeal; Affidavits of Attorney for Extension of Time in which to Docket Record on Appeal; Orders Extending Time in which to Docket Record on Appeal and Stipulation and Order re Record on Appeal, which, together with original Receiver's Exhibits 1, 2 and 3 and Landowners' Exhibit 1, Proof of Claim of Edlou Company, et al, Landowners in El Segundo Community Lease No. Four-A; Proof of Claim of Edlou Company, et al, Landowners in El Segundo Community Lease No. Two-B; Proof of Claim of A. A. McCray, Trustee, for Holders of Overriding Royalties in El Segundo Community Lease No. Four-A; Proof of Claim of A. A. McCray, Trustee, for Holders of Overriding Royalties in El Segundo Community Lease No. Two-B; Proof of Claim of A. A. McCray, Wm. H. Ramsaur and F. R. C. Fenton and Original Reporter's Transcript of Hearing on Order to Show Cause on Holders of Landowners' Royalties, transmitted herewith, constitute the record on appeal to the Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for comparing, correcting and certifying the foregoing record amount to \$20.65 which sum has been paid to me by appellants.

Witness my hand and the seal of said District Court this 25 day of October, 1943.

[Seal]                   EDMUND L. SMITH,  
Clerk.

By THEODORE HOCKE,  
Deputy Clerk.

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[Title of District Court and Cause.]

HEARING ON ORDER TO SHOW CAUSE ON  
HOLDERS OF LANDOWNERS' ROYAL-  
TIES

The following is a stenographic transcript of the proceedings had in the above entitled cause, which came on for hearing before the Honorable Hugh L. Dickson, Referee in Bankruptcy, at his courtroom, 343 Federal Building, Los Angeles, California, at 10:00 a. m. and 2:00 p. m., on December 17, 1942.

Appearances:

GRAINGER & HUNT

By REUBEN G. HUNT, ESQ.,  
appearing on behalf of the Receiver.

RAPHAEL DECHTER, ESQ.

appearing on behalf of the Western  
Mesa Oil Corporation and El Segundo  
Oil Company.

H. L. WELCH, ESQ.,

appearing on behalf of certain landowners.

BRITTON BOWKER, ESQ.,

appearing on behalf of certain landowners.

ALLAN A. McCRAY, pro se.

The Referee: In the Matter of Sovereign Oil Company, there are many matters to be heard today.

Mr. Dechter: I think the first matter would be the hearing on the confirmation of the Plan of Arrangement.

(Discussion and evidence concerning Plan of Arrangement and percent holders is omitted from this record.)

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TESTIMONY

MARTHA L. TAYLOR,

called as a witness on behalf of the Receiver, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Dechter:

Q. Miss Taylor, you are connected with the Sovereign Oil Corporation?      A. Yes, sir.

Q. In what capacity are you connected with them?      A. Well, as bookkeeper.

Q. How long have you been employed by the Sovereign Oil Corporation? [2\*]

A. Let's see, June, 1939.

Q. You have kept the books since that time?

A. No, sir. I kept them beginning with 1941.

Q. You have also made out checks for the various creditors' obligations, including landowners' royalties?      A. Yes.

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\*Page numbering appearing at top of page of original Reporter's Transcript.

(Testimony of Martha L. Taylor.)

Q. I show you a typewritten statement and ask you if you prepared that?

A. Yes, I did.

Q. That will show to the Court the back royalty that had been unpaid and the months for which it accrued? A. Yes, sir.

Mr. Dechter: I will offer this in evidence.

The Referee: Have you gentlemen seen it?

Mr. Dechter: I have shown it to counsel.

The Referee: All right, it will be marked Receiver's Exhibit 1.

(The document was marked Receiver's Exhibit 1.)

RECEIVER'S EXHIBIT No. 1

STATEMENT OF UNPAID ROYALTIES SOVEREIGN WELLS, EL SEGUNDO

Payable to Lotowner's Committee (Wm. R. Ramsauer, F. R. C. Fenton, A. A. McCray)

Well No. 1

March .....	\$ 813.61
April .....	630.59
May .....	662.31
June (18 days) .....	406.25
	\$2,512.76

	Payable to Bank of America, Inglewood Branch	Payable to A. A. McCray, Trustee	Total Royalties Due
Well No. 2			
January	\$180.22	\$ 21.63	\$201.85
February	233.34	28.00	261.34
March	352.54	42.31	394.85
April	124.94	14.96	139.90
May	229.62	27.56	257.18
June (18 days)	127.66	15.42	162.98
	\$1,248.32	\$149.88	\$1,398.20

(Testimony of Martha L. Taylor.)

	Payable to Bank of America, Inglewood Branch	Payable to A. A. McCray, Trustee	Total Roy- alties Due
[Pencil Notation]: 4.			
Well No. 3			
January	\$105.36	\$ 45.63	\$150.99
February	263.81	111.96	375.77
March	199.47	86.16	285.63
April	139.38	59.39	198.77
May	159.48	68.65	228.13
June (18 days)	118.95	51.02	169.97
	<hr/>	<hr/>	<hr/>
	\$986.45	\$422.81	\$1,409.26

Well No. 1—Total.....\$2,512.76

“ “ 2 “ ..... 1,398.20

“ “ 3 “ ..... 1,409.26

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\$5,320.22

[Endorsed]: Filed 12-17-42. Hugh L. Dickson,  
Referee, LMC.

Mr. Dechter: I suppose we can stipulate to this. Will you stipulate these checks were received by Mr. McCray and cashed?

Mr. Bowker: We will stipulate those that were received by Mr. McCray, were endorsed and received by him, and those which were received by the Bank of America were endorsed by the bank.

Mr. Dechter: You will stipulate the Bank of America was [3] designated as disbursing agent for certain land owners under the lease?

Mr. Bowker: That is correct.

Mr. Dechter. I think all these checks might as well be offered as one exhibit.

Mr. Bowker: That is right.

(Testimony of Martha L. Taylor.)

Mr. Welch: Have you check made to the No. 1 Well in there?

Mr. Dechter: Yes.

Mr. Welch: May I see that for a moment?

Mr. Dechter: Oh, that is right, I have a receipt on that.

Mr. Welch: Where is it?

Mr. Dechter: I will offer these checks of the Sovereign Oil Corporation, Your Honor.

The Referee: In this list I see several oil wells. Was there a provision in there that written notice of forfeiture must be given, and if not, corrected within a certain time?

Mr. Dechter: Yes, Your Honor.

The Referee: Was any such written notice given?

Mr. Bowker: No, Your Honor.

Mr. Welch: There never was. We never thought there was forfeiture as far as No. 1 was concerned.

Mr. Dechter: We will stipulate no notice of forfeiture or intention to declare forfeiture was received by Sovereign. [4]

The Referee: From anyone on any one of these four wells, is that correct?

Mr. Bowker: That is correct.

Mr. Welch: That is right.

The Referee: How could you insist on forfeiture if you did not comply with the terms of the lease? If I have a lease from you which provides if I default in any of its terms you must give me a notice in writing that if the default is not cor-

(Testimony of Martha L. Taylor.)

rected within a given number of days the lease will be forfeited—Now if you do not do that, can you declare a forfeiture? That is what I would like to know.

Mr. Welch: I can speak for No. 1 Well, if the Court please, and the answer is during all this time the funds from the royalty for No. 1 Well were impounded by the Superior Court, and it was thought at all times by the land owners that those royalties were being paid. We were assured that those royalties were put in a separate fund, and as soon as the judgment came down from the court they would be paid out.

The Referee: What about you, how can you insist on forfeiture if no notice was ever given?

Mr. Bowker: We can insist on forfeiture at this time and notice of forfeiture would have to be given first and the forfeiture would be based on that notice.

The Referee: What I am trying to get at is this. Are you a general or a secured creditor? If you did not comply [5] with the terms of the lease requiring the notice of forfeiture, would you not be classed as an unsecured creditor?

Mr. Bowker: It is our contention, Your Honor, at this time——

The Referee: I don't want you to tell me your whole case at this time. You need not answer if you do not wish to.

Mr. Bowker: All right.

The Referee: But I am curious, because these things keep running through my mind.

(Testimony of Martha L. Taylor.)

Mr. Welch: If the Court please, on back rent I think that is generally considered an unsecured claim, but if the lessor has a right to declare a forfeiture, the Bankruptcy Courts in some cases have held that the Referee can make an order requiring the Receiver to pay, because the end justifies the means. If the back rent is small and it preserves the property for the estate, it should be paid. That is our position.

Mr. Dechter: Our position is that would be true where there has been no waiver or estoppel on the part of the lessor.

The Referee: All right.

Mr. Dechter: Now does the record indicate those checks were received in evidence, Your Honor?

The Referee: Yes, they will be received as Receiver's Exhibit No. 2. [6]

(The envelope was marked Receiver's Exhibit 2.)

Mr. Dechter: I would like to offer in evidence at this time by reference to the files in this court, if Your Honor please, the proof of debt filed by the landowners on December 5, 1942 as follows:

Edlou Company, et al., for \$1,072.94, which is on behalf of the landowners in Well No. 4;

Edlou Company for \$1,346.55 on behalf of the landowners in Community Lease No. Two-B;

A.A. McCray, for holders of overriding royalties in El Segundo Community Lease No. Four-A, \$422.85;

(Testimony of Martha L. Taylor.)

A. A. McCray, for holders of overriding royalties in El Segundo Community Lease No. Two-B, \$149.88.

All of these claims are filed as unsecured creditors' claims.

Do those represent all of the claims filed by your client, counsel?

Mr. Bowker: Yes, but I think Mr. Welch has a claim on file.

Mr. Welch: I filed a claim here on behalf of the No. 1 Well, and I stated when I filed the petition——

Mr. Dechter: My question is, do those represent all of the claims filed?

Mr. Welch: Yes, but I am addressing the court.

The Referee: Did you file a claim for No. 1 Well?

Mr. Welch: Yes, and at that time I had a petition ready [7] to present.

The Referee: I understand that, but I asked you the question, did you file a claim as an unsecured claim on behalf of Well No. 1?

Mr. Welch: I filed a claim and stated I reserved my right to claim this forfeiture.

Mr. Dechter: There is no such statement in any of the claims I have offered.

Mr. Welch: There isn't in the claim. It was made in open court.

Mr. Dechter: I also wish to——

The Referee: I don't know if that would be a very good claim, Mr. Welch, in open court. If you

(Testimony of Martha L. Taylor.)

followed anything in court with any reservations attached to it, that is the record.

All right, go ahead.

Mr. Dechter: I also wish to offer in evidence a claim filed by A. A. McCray, Wm. H. Ramsaur, and F. R. C. Fenton, on August 13, 1942, as landowners, in the sum of \$2,887.58.

The Referee: What well was that on?

Mr. Welch: That is No. 1.

Mr. Dechter: And also a claim filed by Marion E. Welch, is that your claim?

Mr. Welch: No.

Mr. Dechter: Then I will withdraw that. Do any of you gentlemen know of any other claims filed by landowners out- [8] side of those I have mentioned?

Mr. Bowker: No.

Mr. Dechter: I would like to ask that those claims be received in evidence by reference.

The Referee: They will be received by reference. Is there a copy of that lease or these leases in evidence here in the record?

Mr. Dechter: Do you gentlemen have copies of the leases?

The Referee: If it is stipulated and agreed there was a provision in there that notice of forfeiture should be given in writing. Can you agree on that?

Mr. Bowker: That is correct.

Mr. Dechter: I think it is a 90-day notice of forfeiture.

Mr. McCray: Except in the assignment.

(Testimony of Martha L. Taylor.)

The Referee: It is also stipulated no written notice of forfeiture on any of these leases was ever given to the Sovereign Oil Company, is that correct?

Mr. Bowker: It is so stipulated.

Mr. Dechter: I believe with that the Receiver will rest unless Mr. Hunt has anything to suggest.

The Referee: Any questions of this witness?

Mr. Hunt: I would like to have the record show, Your Honor, during the administration here the Receiver has paid the current royalties.

The Referee: I understand that. [9]

Mr. Dechter: These checks show that, Mr. Hunt.

Mr. Hunt: All right.

Mr. Dechter: I offered them in evidence.

The Referee: All right, gentlemen, any more questions of this witness?

Mr. Welch: I have a few questions, Your Honor.

#### Cross Examination

By Mr. Welch:

Q. Miss Taylor, did you deliver the check in June of 1942 in payment for the royalties on No. 1 Well?

Mr. Dechter: Will you pardon me, Mr. Welch. There is one thing I forgot. Did I give you that receipt, in June, on the No. 1 Well? I have not offered that. Did I get it back?

Counsel, will you stipulate this receipt bears the signature of A. A. McCray as Trustee for the land-owners?

(Testimony of Martha L. Taylor.)

Mr. Bowker: He accepted the check, that is correct; but he is not Trustee for all of the landowners in that.

Mr. Dechter: He was one of the designated agents for the landowners.

Mr. Bowker: Yes.

Mr. Dechter: Is that correct? Is that stipulated to, counsel?

Mr. McCray: Yes.

Mr. Dechter: At this time I will offer as Receiver's [10] Exhibit next in order, a receipt by Mr. McCray of cashiers checks for landowners' royalties on Well No. 1.

The Referee: What is the date of that?

Mr. Dechter: June 17, 1942.

The Referee: All right, it will be marked Receiver's Exhibit No. 3.

(The document was marked Receiver's Exhibit 3.)

RECEIVER'S EXHIBIT NO. 3

June 17, 1942.

Received of Sovereign Oil Corporation, 704 Park Central Bldg., Los Angeles, California, the following cashier's checks drawn on the Union Bank and Trust Company, 8th and Hill Streets, Los Angeles, California.

Check #417340—A. A. McCray, Wm. Ramsaur & F.

R. C. Fenton .....	\$4,016.77
“ 417342—Bank of America, Inglewood, Calif.....	436.78
“ 417343—Leroy Pinson & Grace Gage Pinson....	420.60
“ 417344—Frances Palmer Howe .....	671.95
“ 417345—Edlou Company .....	1,726.58

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\$7,272.68

(Testimony of Martha L. Taylor.)

Payment on El Segundo #1 Well to Landowners up to and including February, 1942.

A. A. McCRAY

[Endorsed]: Filed 12-17-42. Hugh L. Dickson, CMC.

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Mr. McCray: What date in June did you say?

Mr. Dechter: June 17, 1942.

Mr. Welch: That was the date you delivered the checks, the day before the petition in bankruptcy was filed in this case?

Mr. McCray: Yes.

Mr. Dechter: She has not testified to that.

The Referee: How did these checks leave your possession, through the mail?

The Witness: No; I handed them to Mr. McCray personally.

The Referee: All right.

#### Cross Examination

By Mr. Bowker:

Q. Had Mr. McCray been up prior to that time to request that money be turned over to him for those past royalties?

A. You mean before the judgment?

Q. Before this time when the checks were actually [11] delivered to him on June 17.

A. He had been up before the judgment, of course, but I could not pay them until I had the judgment in my possession.

Q. In other words, to your knowledge, there was

(Testimony of Martha L. Taylor.)

some litigation here and there was a judgment here, and you were unable, then, to pay these checks until the judgment had been entered, is that correct?

A. Yes.

Mr. Dechter: To which we object on the ground it is a compound question and calls for a conclusion of the witness, and is not proper because there is no foundation laid.

The Referee: I think the judgment which we are to have here this afternoon will decide that, is that right?

Mr. Welch: Here is a copy of the judgment, Your Honor. I was going to get a copy of the Register of Actions to show that this matter was pending all this time. We have the judgment here.

Mr. Dechter: That would be the best evidence, I believe.

The Referee: I would not want this young lady to tell me what she might have done until she got the judgment, because her opinion might differ from mine about a judgment. I would like to see it.

Mr. Welch: Have you got the certified copy?

Mr. Bowker: This is a photostat.

Mr. Hunt: May we stipulate that is a photo-static copy? [12] What is the use of objecting?

Mr. Dechter: We will make no objection on the ground it is not certified if that is what counsel wants.

The Referee: All right.

Mr. Welch: We would like to introduce this.

(Testimony of Martha L. Taylor.)

The Referee: We will call that Landowners Exhibit No. 1.

(The document was marked Landowners Exhibit No. 1.)

LANDOWNERS EXHIBIT NO. 1

Book 1255 Page 367

In the Superior Court of the State of California  
in and for the County of Los Angeles

No. 429,491

SOVEREIGN OIL CORPORATION, a corporation,  
Plaintiff and Cross-Defendant.

Plaintiff and Cross-Defendant.

vs.

Group #1

F. R. C. FENTON  
ETHELWYN LAURENCE  
EDITH L. CLARK  
MARY E. ARTHUR  
ADELE DOROTHY LAUTH  
MARY F. HILDER  
FLORENCE E. RAMSAUR  
WILLIAM H. RAMSAUR  
ANNA BARROWS  
WILLIAM A. EDWARDS  
IVAN S. CUMMINGS

Cross-Complainants and Defendants.

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

Group #2

EDLOU COMPANY, a corporation,  
FRANCES PALMER HOWE  
ETHEL MAE MARCHER  
FRANK A. MARCHER  
LEROY PINSON  
GRACE GAGE PINSON,

Defendants and Cross-Defendants.

EDWARD L. BLINCOE,

Defendant and Cross-Defendant,

DOROTHY S. FENTON

GEORGIA H. RAMSAUR

SYDNEY R. EDWARDS

SYDNEY MARGARET CUMMINGS

H. L. WELCH

J. POWERS FLINT

METROPOLITAN TRUST COMPANY OF  
CALIFORNIA, a corporation,

Cross-Defendants,

EDLOU COMPANY, a corporation,

FRANCES PALMER HOWE, LEROY PINSON  
and GRACE GAGE PINSON,

Cross-Complainants.

## JUDGMENT

It appearing to the court that a stipulation for entry of a compromise judgment was entered into on May 1, 1942 by all of the parties to the above

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

entitled cause and their respective attorneys, and that said parties thereby intended to and did compromise and settle their respective claims involved in the above entitled cause in order to avoid further litigation therein, and it further appearing by the terms of said stipulation that said parties and their respective attorneys have consented to the entry of a judgment by this court in accordance with the terms of said stipulation,

It is Hereby Ordered, Adjudged and Decreed as follows:

(1) That Metropolitan Trust Company of California shall be entitled to retain, as and for full satisfaction of its fees, costs and expenses (including its attorney's fees), the sum heretofore deducted by it for its fees, costs and expenses from the oil and gas royalties heretofore deposited with it, viz., the sum of \$932.18.

(2) That Group No. Two defendants have and recover from Sovereign Oil Corporation the undistributed oil and gas royalties accrued on August 31, 1941, and retained by Sovereign Oil Corporation, viz., the sum of \$3,255.91, which sum shall be paid and distributed to Group No. Two defendants as follows:

\$1,726.58 to Edlou Company;

\$ 671.95 to Frances Palmer Howe;

\$ 420.60 to Leroy Pinson and Grace Gage Pinson;

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

\$436.78 to Bank of America, N.T. & S.A., Inglewood Branch, as depositary for the lessors under El Segundo Community Lease No. Two B, the same being the share of said Frank A. Marcher and Ethel Mae Marcher in said sum of \$3,255.91.

That Group No. Two defendants have and recover from said Metropolitan Trust Company of California, the sum of \$18,744.09, the same being undistributed oil and gas royalties now on deposit with it, which said sum, \$18,744.09, shall be paid and distributed by said Metropolitan Trust Company of California, as follows:

\$9,939.80 to said Edlou Company;

\$3,868.41 to said Frances Palmer Howe;

\$2,421.36 to said Leroy Pinson and Grace Gage Pinson;

\$1,500.00 to said Ethel Mae Marcher;

\$1,014.52 to Bank of America, N. T. & S. A., Inglewood Branch, as depositary for the lessors under El Segundo Community Lease No. Two B, said sum of \$1,014.52, being the balance of the share of said Frank A. Marcher and Ethel Mae Marcher in the said sum of \$18,744.09.

Said distributions representing the share of said Frank A. Marcher and Ethel Mae Marcher shall be made by said Sovereign Oil Corporation and said Metropolitan Trust Company of California directly to said Ethel Mae Marcher and to said Bank in the

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

amounts specified herein. No deductions covering fees or expenses of any character in connection with said litigation or the settlement thereof shall be chargeable against the shares of said Frank A. Marcher or of Ethel Mae Marcher.

(3) That the balance of the sum of \$20,246.89 held on deposit by said Metropolitan Trust Company of California, viz., the sum of \$1,502.80, shall be paid by Metropolitan Trust Company of California to the present lot owners' committee (William H. Ramsaur, F. R. C. Fenton and Edith L. Clark) by check. Said check for \$1,502.80 shall be made payable to William H. Ramsaur, F. R. C. Fenton and Edith L. Clark, and shall be delivered by said Metropolitan Trust Company of California to said William H. Ramsaur. Said Metropolitan Trust Company of California shall be under no duty or obligation to see that said funds are properly distributed and applied to the payees on the check. After payment of all expenses, costs and fees incurred by said committee on behalf of Group No. One defendants, the balance of said sum remaining, if any, shall be paid and distributed by said committee to Group No. One defendants, their successors and H. L. Welch and J. Powers Flint, according to their respective proportional interests as provided in paragraph (4) (a) hereof.

Upon payment by said Sovereign Oil Corporation of the amount herein provided to be paid by it to Group No. two defendants, as provided by para-

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

graph (2) hereof, viz., the said sum of \$3,255.91, and upon payment by said Sovereign Oil Corporation of the amount herein provided to be paid by it to the depository acting hereunder, viz., the sum of \$4,016.77, representing royalties, bonuses and other payments accruing on and after September 1, 1941, to March 1, 1942, and payable by said Sovereign Oil Corporation, as lessee under El Segundo Block 31 Community Oil and Gas Lease, said Sovereign Oil Corporation shall be released from any and all claims for payment of any royalties, bonuses or other payments accruing up to and including March 1, 1942, excepting claim, if any, for refund from reserve fund retained from royalty payments by said Sovereign Oil Corporation to cover lessor's share of taxes.

Upon payment by said Metropolitan Trust Company of California of the sum held on deposit by said Metropolitan Trust Company of California, as herein provided, namely said sum of \$20,246.89, said Metropolitan Trust Company of California shall be released from any and all other claims for payment and claims of any nature whatsoever arising or growing out of its Escrow No. 5887.

(4) That all oil and gas royalties, bonuses and other payments becoming due and payable under said El Segundo Block 31 Community Oil and Gas Lease and accruing on and after September 1, 1941, (after the deduction of the expenses hereinafter authorized), instead of being distributed upon a

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

square footage basis as in said lease provided, shall be distributed by the depositary hereunder as follows:

(a) A total of 65% of all of said oil and gas royalties, bonuses and other payments shall be distributed to Group No. one defendants, their successors, and H. L. Welch and J. Powers Flint as follows:

F. R. C. Fenton .....	12.5320%	of said 65%
Ethelwyn Laurence .....	6.2660%	“ “
Edith L. Clark .....	17.4876%	“ “
Mary E. Arthur .....	8.1337%	“ “
Adele Dorothy Lauth.....	9.0074%	“ “
Mary E. Hilder .....	6.2660%	“ “
William H. Ramsaur .....	7.07935%	“ “
Anna Barrows .....	2.03342%	“ “
William A. Edwards .....	1.01672%	“ “
Ivan S. Cummings .....	1.01671%	“ “
H. L. Welch .....	6.2660%	“ “
J. Powers Flint .....	7.8325%	“ “
Lucien C. Ramsaur .....	3.0125%	“ “
Sydney R. Edwards .....	3.0125%	“ “
Virginia B. Danzy .....	3.0125%	“ “
Pearl Ramsaur .....	3.0125%	“ “
Ben W. Ramsaur .....	1.0042%	“ “
James C. Ramsaur .....	1.0042%	“ “
Sue Ramsaur Jones .....	1.0042%	“ “

(b) A total of 35% of all of said oil and gas royalties, bonuses and other payments shall be distributed to Group No. two defendants as follows:

Edlou Company, a corporation 53.0287% of said 35%

Frances Palmer Howe 20.6384% of said 35%

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

Leroy Pinson and Grace Gage Pinson  
12.9180% of said 35%

Ethel Mae Marcher and Frank A. Marcher  
13.4149%, of 35%, of which all royalties, bonuses  
and other payments from September 1, 1941, to  
date of judgment shall be paid to Bank of  
America, N. T. & S. A., Inglewood Branch, as  
depository for the lessors under said El Se-  
gundo Community Lease No. Two B.

(5) That from and after the date of entry of  
this judgment, and until the election of a successor  
or successors, the lot owners' committee provided  
for in said El Segundo Block 31 Community Oil and  
Gas Lease shall consist of the following persons,  
to wit: A. A. McCray, Secretary of Edlou Com-  
pany, a corporation, William H. Ramsaur and  
F. R. C. Fenton; and in all future elections of said  
lot owners' committee, said Group No. one defend-  
ants, H. L. Welch and J. Powers Flint, or their  
successors in interest, shall elect two of said commit-  
teemen and said Group No. two defendants, or their  
successors in interest, shall elect one of said commit-  
teemen, and to this extent paragraph 26 of said El  
Segundo Block 31 Community Oil and Gas Lease  
is hereby amended.

Except as herein otherwise provided, the commit-  
tee's powers and duties as managing agent are  
hereby limited to the conduct of investigation as to  
the rights of the lessors under said lease and their  
successors, and the making of demands for the

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

enforcement of such rights, and shall not include the incurring of any additional expense without the authorization of said lot owners, as hereinafter provided.

All payments by said Sovereign Oil Corporation of royalties, bonuses and other payments accruing on and after September 1, 1941, as lessee under said El Segundo Block 31 Community Oil and Gas Lease shall be made by said Sovereign Oil Corporation to the lot owners' committee of three, as depositary, or to such other depositary as said lot owners may hereafter designate.

The lot owners' committee shall act as the managing agent of the lot owners, and during such time as it acts as depositary under said El Segundo Block 31 Community Oil and Gas Lease and this judgment, it shall accept and distribute to the various persons entitled thereto the royalties, bonuses and other payments received as depositary. It is authorized to and it may deduct and expend, from such royalties, bonuses or other payments, the sum of \$25.00 per month to pay for the employment of an oil engineer for the purpose of testing and checking such oil wells as may be operated upon the premises covered by said lease, and to deduct and retain an additional sum of \$25.00 per month as compensation to said committee for their services as such committeemen, and to deduct such additional sums, not to exceed \$10.00 for any one month, as may be reasonably necessary for all miscellaneous

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)

expenses in the distribution of royalties, bonuses and other payments to the persons entitled thereto.

The committee's acts in such capacity or capacities shall be pursuant to such authority as may be vested in the members thereof by the terms of said El Segundo Block 31 Community Oil and Gas Lease and this judgment or by authorization of the owners of at least two-thirds of the square footage of all lots included in said Block 31 given at a meeting of lot owners duly held as provided by paragraph 26 of said lease.

(6) That said Group No. One defendants, their successors, and H. L. Welch and J. Powers Flint shall be liable in proportion to their respective interests for all expenses incurred on their behalf by the present lot owners' committee up to and including August 31, 1941.

(7) That each party to this action shall bear his, her or its own costs of suit, including costs on appeal, except that said Metropolitan Trust Company of California shall not bear any of said costs, but shall be entitled to retain said amount of \$932.18, heretofore deducted by it from funds on deposit, to cover its fees, expenses and costs.

(8) That said Group No. Two defendants are not entitled to, and shall not receive any interest upon any royalty or sum of money which might otherwise be due or payable to them, or any of them, under said El Segundo Block 31 Community Oil

(Testimony of Martha L. Taylor.)

Landowners Exhibit No. 1—(Continued)  
and Gas Lease, and which shall remain unpaid up  
to and including the date of the entry of this judg-  
ment.

Dated: June 9, 1942.

[Signature illegible]

Acting Presiding Judge of the  
Superior Court.

[Endorsed]: Filed, June 9-1942 J. F. Moroney,  
County Clerk By [Illegible] Deputy.

Entered Jun 10 1942 Docketed Jun 11 1942  
Book 1255 Page 367 By N. Grey Deputy

[Endorsed]: Filed 12-17-42. Hugh L. Dickson,  
Referee, CMC.

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Cross Examination  
(Resumed)

By Mr. Welch:

Q. That check you delivered to Mr. McCray on  
the 17th of June, do you know what months it was  
for? A. Well,—

Mr. Dechter: To which we object on the ground  
the check is the best evidence and speaks for itself.

The Referee: Does the check state what it is for?

Mr. Bowker: No, it does not.

The Referee: Let me see the check.

Mr. McCray: It does not state.

The Witness: No.

Mr. Welch: It was a certified check.

(Testimony of Martha L. Taylor.)

The Referee: They were cashiers checks, weren't they?

Mr. McCray: That is right. They did not state on the checks. They were cashiers checks.

The Referee: They would not state any date.

[13]

Mr. McCray: No.

The Referee: Can you answer that, Miss Taylor? Do you know what months they were for?

The Witness: I think they they were for May, 1941 through February, 1942.

The Referee: From May, 1941 through February, 1942?

The Witness: Yes, I believe that is correct.

The Referee: All right, proceed.

Mr. Welch: As a matter of fact, weren't they for September, October, November, and December of the year, 1941?

A. Well, I believe we held it up—

Q. (Continuing) Up through March 1, 1942?

A. No. As I remember, they were for the May, 1941 royalties through February of 1942 royalties. That is my belief. Isn't it written on that receipt I have?

The Referee: Where is that receipt that Mr. McCray signed? Here it is right here.

The Witness: It pays them through February, 1942.

Mr. Dechter: The receipt would speak for itself, Your Honor.

Mr. McCray: That is right.

(Testimony of Martha L. Taylor.)

The Referee: It is dated January 17 and is apparently signed by A. A. McCray, payment on one El Segundo Well to landowner up to and including February, 1942, \$7,272.68.

Having signed it, the gentleman must have accepted it as written. [14]

Mr. Welch: Yes.

Q. Now that paid up all of the delinquent royalties until the 1st of March, is that right?

A. That is right.

Q. This money you gave to him was in the form of cashiers checks? A. Yes, it was.

Q. Is it not a fact, from September, 1941 that you withheld royalties on the No. 1 Well because of litigation pending in the Superior Court?

Mr. Dechter: To which we object.

Mr. Welch: (Continuing) And that during that time you put this money into cashiers checks which were laid away to be delivered as soon as the litigation was ended?

Mr. Dechter: To which we object on the grounds: First, it is a compound question; and secondly, it is not a proper question on cross examination; and thirdly, there has been no proper foundation laid to qualify this witness to testify along those lines. She is merely a bookkeeper. My examination of this witness was merely to find out if a certain statement was prepared from their records.

The Referee: To my mind there is a fourth objection: It is immaterial. Why she did not pay

(Testimony of Martha L. Taylor.)

it is immaterial. The fact is in evidence she did pay it, and the man accepted it. What difference would it make why she didn't pay it?

Mr. Welch: Well, those were accumulated—  
[15]

The Referee: Suppose she were paralyzed and couldn't write and didn't recover the use of her right arm until June when you accepted the money, would it make any difference why she did not pay it?

Mr. Welch: I think so, Your Honor.

The Referee: Why?

Mr. Welch: I think this whole thing turns on whether we waive our right to declare a forfeiture of this lease.

The Referee: Apparently you have when you signed it in June and accepted payment up to March, and you gave no notice of forfeiture. You cannot forfeit a man's right in a lease if it provides for written notice without giving a written notice. Don't you agree with me on that?

Mr. Dechter: That is very true.

The Referee: A lease is a property right which a man has a right to hold.

Mr. Welch: What we want to show is this: We believe that these royalties were all being paid, but they were being held to be delivered on this date, and when the money was delivered it was the day before this bankruptcy was filed, and then upon the assurance the balance of the money would be paid within a day or two.

(Testimony of Martha L. Taylor.)

The Referee: Would that be a legal excuse for your not giving notice of forfeiture?

Mr. Welch: I think so.

The Referee: As a matter of caution, shouldn't you [16] have given a written notice of forfeiture at that time?

Mr. Welch: Under certain circumstances, yes. May I ask to be allowed to file a brief in this case? I think we can show that the law is very plain.

The Referee: I will give you full opportunity to present your case. I will read all of the briefs you want to present.

Are there any other questions?

Mr. Welch: Your Honor, we would like to introduce some evidence.

The Referee: It is now twelve o'clock. Do you want to proceed this afternoon?

Mr. Bowker: Yes, Your Honor.

The Referee: All right, sir, come back here at two o'clock. Do you want this young lady any more?

Mr. Welch: I don't think we will need Miss Taylor any more.

Mr. Dechter: May I pass these books up to the court in the event Your Honor has an opportunity of looking at them during the noon hour?

The Referee: Yes, sir, I will do that. [17]

December 17, 1942

2:00 P. M. Session

The Referee: Proceed, gentlemen. Do you have some evidence you want to put on, Mr. Welch?

Mr. Welch: Yes, if the Court please. I have here a certified copy of a document from the Superior Court, a copy of a Register of Actions for the purpose of showing that this case was pending at all times while these proceedings were going on.

The Referee: What was the nature of the suit in the Superior Court?

Mr. Welch: It was a contest between the landowners as to who was entitled to royalties.

The Referee: Was the validity of the liens in question there?

Mr. McCray: It was an interpleaders' suit.

Mr. Dechter: I don't know myself except there was a question as to how much each of the landowners was entitled to receive under the lease, and the purpose of the suit was to determine what aliquot part each was to receive.

The Referee: Was there any question that the lease had been breached and therefore should have been terminated?

Mr. Dechter: None whatever in that connection.

The Referee: In other words, it was a contest between certain parties who claimed they were entitled to certain receipts from the well?

Mr. Dechter: That is right. The Sovereign Oil Corporation said they had so much money, and it belonged to [18] the landowners, and the landowners claimed it in different amounts and asked the Court to determine how they should be paid. That was only on the No. 1 Well.

The Referee: I do not see how that would affect the question of the rent or even the validity of the lease.

Mr. Welch: It does not, only in this way, if the Court please. I think the rule is that a landowner or lessor waives his right to declare a forfeiture by the acceptance of rent if he has full knowledge of all facts, that is, that the lessee is in default prior to the time that he receives the current rent.

The Referee: Didn't these folks know that the landowners' royalty had not been paid?

Mr. Welch: No, Your Honor. That is the very point. They thought the royalty was being paid at all times into the hands of the Court or into accounts from which it was to be distributed by order of court. They did not know at any time they were in default until the day before this petition in bankruptcy was filed.

The Referee: They believed that the money as it became due was being paid into the Superior Court?

Mr. Welch: Yes, they believed it was being put aside in a separate fund.

The Referee: Well, they did discover, however, it had not been paid the day before this proceeding was begun?

Mr. Welch: That is true. [19]

The Referee: And there has been no declaration of default of this lease since that time?

Mr. Hunt: That is correct, Your Honor.

Mr. Dechter: That is right.

Mr. Welch: Declaration of default? We appeared in court urging that very point, and we stated at that time we would defer exercising any right whatever until our rights were determined under this arrangement.

The Referee: Do you now contend that the lease was in default and should be voided?

Mr. Welch: No, but we contend we have a right to the back rents.

Mr. Dechter: We admit they have——

The Referee: Well, that is admitted.

Mr. Welch: Let me finish.

Mr. Dechter: Pardon me, counsel.

Mr. Welch: We maintain we have a right to the rents from March, April, May and June, and that we have a right to declare forfeiture for their non-payment which we have suspended while this matter was in the hands of the Court. We could not have declared a forfeiture while it was here in court.

The Referee: Do you still adhere to the statement that under the terms of the lease it is necessary to give written notice of cancellation of the lease for any breaches?

Mr. Welch: I think perhaps it is. We have not exer- [20] cised our right yet, but we claim we have not waived our right.

The Referee: Well, if your statement is correct that ninety days' notice is to be given, then you would have ninety days in which to remedy the breach, so you would be in no better position.

I will take that and look it over.

Mr. Bowker: Before we start in here I wonder if I could make a short statement and see if I could get a couple of matters cleared up in my mind. I was not present during the proceedings up until last week, so I am a little unfamiliar as

to what has taken place in the earlier proceedings concerning the arrangement.

I was asked to come in on this one petition with relation to landowners' royalties. I don't know whether I am correct or not, but as I understand it, under the arrangement as proposed herein, and which was confirmed this morning by Your Honor, there is a statement relative to landowners' royalties in that arrangement to the effect:

“Landowners' royalties which carry with them the right of forfeiture of the oil and gas leases under which such royalties are payable and where such right of forfeiture has not, prior to the filing of the petition in bankruptcy, been waived either in writing or by the conduct of the parties, will be paid in full in the same manner as priority claims. Where, however, the facts disclose that prior to [21] the filing of the proceedings hereunder by the debtor, the landowners, by writing or by their conduct, have legally waived the right of forfeiture as to any of the unpaid royalties, the same will be treated the same as those in the class of unsecured creditors. Should any controversy arise as to the proper status of such claims of holders of landowners' royalties, the same shall be determined by the above entitled Court in the above entitled proceeding upon hearing after notice.”

That was the arrangement under the plan. Then the notice was served and on the Order to Show Cause along the same line, that the only question to be determined before this Court was whether or not the landowners, by their conduct or in writ-

ing, ever waived their right to declare forfeiture for those months which the landowners' royalty is now due and owing. There is no controversy that there is certain money owing. I feel at this time that we are not coming in here to declare a forfeiture in this Court or to ask a forfeiture. It is only a question of whether we have waived our right.

The Referee: By the acceptance of these subsequent rents?

Mr. Bowker: By the acceptance of the rent, that is correct.

Mr. Dechter: We agree with that issue, Your Honor.

Mr. Bowker: If I am right there, then, as I say, [22] Your Honor, I was not present at these proceedings. Mr. McCray, who is one of the landowners, has been present from the outset, but it is my understanding when the proceedings were first commenced there was an Order to Show Cause served on the landowners and a hearing had in order to determine their status. I may stand corrected in this, I may be in error, but it is my understanding that Your Honor made an order setting it off calendar and informed the landowners that this matter would be taken up at a later time in this proceeding, and that that would not be prejudicing their rights in any way under the lease until they had been heard in court. Now that may be an erroneous statement, Your Honor.

The Referee: But no word or act of mine was given to authorize the acceptance of any rent.

Mr. Bowker: No, I didn't mean that.

The Referee: I merely said there would not be any prejudice to anyone by the delay, and I still stand on that statement.

Mr. Bowker: Yes, Your Honor.

The Referee: If they accepted rents after that time, that is another matter.

Mr. Bowker: Then as far as your point is concerned, as far as our proof of claim is concerned which we filed in this matter, of course it wasn't filed as a secured *or* unsecured claim. We merely set forth the facts relative to [23] the lease and we know certain money was owing to us, and we thought that would be a vehicle—we had to have that vehicle to bring us before Your Honor, because we expect Your Honor to determine in this hearing whether or not we are secured or unsecured.

So with those few statements in mind, I will close. That was my opinion, in other words, as to the reason for this hearing.

The Referee: All right, anything further?

Mr. Dechter: It is our contention, Your Honor, that the landowners did not have to accept the rents if they wanted to rely upon their right of forfeiture. We contend they waived the right of forfeiture by their acts and conduct, both before and since the filing of the bankruptcy petition, by accepting royalty checks after they were due and prior to the filing of the bankruptcy petition, and by accepting royalty checks subsequent to the *filing* of the bankruptcy petition from the Receiver.

The Referee: When was this petition filed, Mr. Dechter?

Mr. Dechter: I think it was filed June 19, Your Honor.

The Referee: The Bank of America checks were issued June 17.

Mr. Dechter: That is right. There were checks issued before then, Your Honor, in January, February, March, and in June. Then there were checks issued in July, August, September, and October.

[24]

In the American Precision Machinery case, which was before Your Honor, the landowner in that case contended he had the right of forfeiture, and the evidence showed after the filing of the bankruptcy proceeding he accepted checks.

The Referee: I remember that.

Mr. Dechter: I found even a later California case in addition to the two cases I gave to Your Honor this noon. It is Keating vs. Preston, 42 Cal. Appellate, 2nd Series, page 110.

The Referee: All right.

Mr. Dechter: At page 121 the Court says, "The authorities are uniform to the effect that the forfeiture of a lease for breach of covenant with full knowledge thereof on the part of the lessor is waived by the acceptance of rent which accrues after the breach."

The Referee: That sounds pretty good.

Mr. Dechter: "The present case is a clear example of circumstances under which a landlord is estopped from terminating a lease after use of the

premises contrary to an implied covenant by demanding and receiving rent which accrued after the asserted breach, with full knowledge of the illegal use of the property. This does not mean that the lease might not be forfeited by a subsequent similar breach after the waiver occurred. That situation, however, is not involved in this suit.”

In other words, we have a situation here where they [25] knew there was a breach by reason of the failure to pay the rents in March, April, May, and June, and they accepted these checks subsequent to that time with knowledge of that particular breach.

The Referee: All right.

Mr. Hunt: If Your Honor please, there are some other cases. May I submit a memorandum?

The Referee: Yes, gentlemen, I am going to take this matter under submission and give you all a chance to give your authorities.

Mr. Dechter: I might state in connection with counsel's request for time to file a memorandum of authorities, I asked that a meeting be held in my office, which meeting was held for the purpose of trying to stipulate to what the facts were, and in attempting to see whether or not we could agree on what the law was, and if we could not stipulate to the facts we would submit it to Your Honor. At that time I told counsel who were present, and Mr. McCray, the law upon which Mr. Hunt and I were relying, so it is not as if they were unprepared to meet the issues.

The Referee: All right. Mr. Welch, that case

you cited does not touch this question at all. It says classification of claims should not be arbitrary or unjust so as to cause an injustice.

Mr. McCray: May I say something in this connection?

The Referee: That case does not touch the question of [26] the landowners.

Mr. McCray: I seem to be the butt of all this thing.

The Referee: What is that?

Mr. McCray: First of all, there is one issue before the Court.

Mr. Dechter: Is Mr. McCray an attorney?

Mr. McCray: No, I am not.

Mr. Dechter: Your Honor, Mr. McCray is represented by counsel. He should speak through his attorney.

The Referee: Well, let us hear what he has to say.

Mr. McCray: One question before the Court here is whether we have waived our rights of forfeiture prior to the filing of the bankruptcy. Under the plan, which was confirmed by the Court this morning, the specific wording says, "Landowners' royalties which carry with them the right of forfeiture of the oil and gas leases under which such royalties are payable, and where such right of forfeiture has not, prior to the filing of the petition in bankruptcy,"—that seems to be the issue as far as I can see it when the plan was confirmed.

The Referee: "Has not been waived prior," isn't that what it says?

Mr. McCray: Yes, "has not prior to the filing of the petition in bankruptcy been waived either in writing or by the conduct of the parties, will be paid in full in the same manner as priority claims."

[27]

The Referee: There is your limitation, if it has not been waived either in writing or by conduct.

Mr. McCray: Now to prove we have waived that right prior to the petition in bankruptcy and whatever they did after the bankruptcy has nothing to do with the case.

Mr. Dechter: He fails to read the sentence immediately following, "Should any controversy arise as to the proper status of such claims the holders of landowners' royalties, the same shall be determined by the above entitled court in the above entitled proceeding." In other words, all this plan says if somebody is a secured creditor he will be paid in full. The present proceeding has nothing to do with the plan. It is brought up on proper petition and Order to Show Cause. They have been served, and the issues are raised by that petition.

The Referee: That plan very definitely says if the right to forfeit has not been waived prior to bankruptcy, either by conduct or in writing. Now, they contend your acceptance of the checks on the 17th was such conduct that waived your right to forfeiture.

Mr. McCray: We want to prove, and I think we can show that prior to the acceptance of those checks of June 17th, payment of royalties was due

under a judgment, and it was purely a case of interpleader.

The Referee: If your statement is correct there, it was a contention between certain parties as to who was [28] entitled to which royalties, is that right?

Mr. McCray: That is right.

The Referee: Now, then, the company said, "We are merely a stakeholder."

Mr. McCray: That is right.

The Referee: "We have no interest in this, therefore, we intervene and pay the money to the Court, and let it be paid by the Court to whomever is determined to be entitled to it." Isn't that what the situation was?

Mr. McCray: That is right, except the money was not paid into the Court.

The Referee: Well, I was told by someone that it was a sizeable sum that was paid by the Court.

Mr. McCray: No, it wasn't paid by the Court.

The Referee: Does the Court still have that money?

Mr. McCray: No, Your Honor. The Sovereign Oil Corporation had placed the money in the hands of the Metropolitan Trust Company for a period of several months after the judgment was reversed, reversing the decision in the Superior Court, then the Sovereign Oil Corporation acted as stakeholder on the balance of the money. The Metropolitan Trust Company on the filing of the final judgment paid over the sum and the Sovereign Oil Company had represented to me that they had the full amount

of money up until the date of judgment, two days before this filing of the petition in bankruptcy.

They say, "This is all we have. Here is the money, and [29] we will pay you the balance of the money within two weeks as soon as we get some money from the Standard Oil Company. But this is all we have, and we are paying up to March 1."

The question of that royalty was all paid on No. 1 Well. The reason for that was this: Mr. Cooney said they wanted to get that out of the way before they got into this litigation, and under the plan of arrangement the landowners were going to be paid in full, the National Supply Company, the principal creditor of the Sovereign Oil Corporation, and that that was on No. 1 Well and they would see the royalty would be paid in full.

Then Mr. Cooney was appointed Receiver, and he came to see me several times. He said, "I find out now we cannot pay you the back royalty right away, but will you give us a couple of months? I can pay it in two or three months. I would like to see that it is paid."

I have known Mr. Cooney for a number of years. I have taken the man for his word. If a friend of mine is in financial difficulty I don't immediately serve him with a notice of default and tell him he has to go into bankruptcy. He said the plan to be worked out under bankruptcy was a plan for the insolvent corporation to work out their own affairs and to give them a little time, and they would see we would be paid in full, and that under the plan they intended to buy out the corporation

themselves. After he got into it he finally determined that it probably was not [30] advisable to buy the corporation.

They led me to believe and told me right along,—Mr. Cooney, the manager of the Sovereign Oil Corporation said, “The very first thing we are going to do is to pay those back royalties.” Under the plan they were going to do several things. First of all, they were going to pay landowners’ royalties.

I received those checks from Miss Taylor. Mr. Cooney was there. I said, “What is this balance?”

He said, “Here is what we are going to do, pay your current and back royalties, and I will see that you get your current and back royalties in several months.”

Now they say we come in and waive our rights.

Mr. Hunt: I want to be heard against these charges, if Your Honor please. Mr. Cooney is not a lawyer. He did a good job, and did it without any charge. It may be true what he told these gentlemen, but he told me about it, too, as he should have done. I was his attorney, and I said, “No, you cannot do that. You cannot make any promises as to what you are going to do unless it is backed up by an order of court. You cannot make any promises. The Court has the last say.”

The Referee: I realize that.

Mr. McCray: Excuse me, Your Honor, I am not making any charges.

Mr. Hunt: Just a minute. [31]

Mr. McCray: All right.

Mr. Hunt: You have made these charges.

Mr. McCray: That is not a charge, I want to correct that statement.

Mr. Hunt: He made a statement he could pay them, but I said he could not unless the Court authorized it.

The Referee: I appreciate what you say, Mr. Hunt.

Mr. Hunt: So he stopped making any further representations.

The Referee: I know Mr. Cooney and I recognize his ability, and I think he is a sincere and honest man. He told you what he honestly believed he had a right to do or could do. I don't think he intended to deceive you. However, as Mr. Hunt says, it is necessary to obtain leave of Court before anything is done so as to make it legal and proper.

Mr. McCray: May I say one more thing there, Your Honor?

The Referee: Yes, sir.

Mr. McCray: I didn't mean to interfere or make any charges against Mr. Cooney.

The Referee: I appreciate that.

Mr. McCray: I wanted to show that I did what a reasonable man would do. I took him at his word that he would see it would be paid. Then he found out he couldn't. But by my conduct I did not waive my right. I did what any [32] reasonable man would do under the circumstances. I knew we could have gone ahead and thrown them into bankruptcy right now.

Mr. Dechter: There is nothing detrimental or

derogatory as to what Mr. McCray did. We all do things of that kind. The law says you can rely upon a person's credit or you can rely upon your security. If he wanted to rely solely upon the right of forfeiture he would not have given any further time.

The Referee: Well, the whole thing is comparable to this. I give a man my note, and within a certain number of years after the due date he must sue on it. If he is lulled into a sense of security by my oral promises that I will pay him, and if he lets the Statute run, then he is out, that is all. He is just a victim of circumstances unless I extend it in writing.

Mr. Hunt: One thing further I would like to call to Your Honor's attention. These claims filed by Mr. McCray are in the ordinary form which are filed by unsecured creditors.

The Referee: That is true.

Mr. Hunt: They are just on the ordinary form.

Mr. Dechter: They don't state they have any security.

Mr. Bowker: We state the rights under the leases.

Mr. Dechter: You state you have so much money due you, that is all. [33]

Mr. Bowker: By reason of the aforementioned lease.

Mr. Hunt: The point is if you reserved other rights you claim under the lease, that would be different, but you did not; you merely filed an ordinary claim, filed by an unsecured creditor.

Mr. Welch: I would like to call attention to the fact the plan of arrangements cuts off all that.

The Referee: Cuts off what?

Mr. Welch: Any claim, that by filing a claim or by accepting rents, we jeopardize our rights. It says anything prior to that, prior to the adjudication.

Mr. Dechter: The Receiver represents creditors as well as the debtor, and the rights of creditors cannot be taken away when the Receiver takes over the business and manages it and pays the rents, and if the people have a right of forfeiture, that is not taken away by the Bankruptcy Court.

The Referee: I realize that.

Mr. Deched: The landlord can come in and say, "I want my rent or forfeiture." All this Court can do then is say, "I will give you a reasonable time, but I cannot take your rights away."

The Referee: I have had any number come in here on that very thing.

Mr. Bowker: Under this arrangement, this is a plan of arrangement, and not an adjudication in bankruptcy, and under the plan as Mr. McCray pointed out, in the master plan [34] and also in the petition for the determination of our rights and status as landowners, they say specifically:

"At the time of the commencement of the bankruptcy, certain royalties known as landowners' royalties," I am reading from their petition for determination of our status, "had accumulated and were unpaid in favor of the lessors under said leases, commonly known as landowners, in a sum ag-

gregating several thousand dollars. Under the provisions of this revised arrangement, it is provided that these accumulative landowners' royalties shall be paid in full, in cash, unless the facts disclose that such landowners did by their conduct prior to bankruptcy waive any forfeiture rights they had"—

In other words, did by their conduct prior to bankruptcy—

The Referee: This is June 17?

Mr. Dechter: You, Your Honor, June 19.

Mr. Bowker: June 19—did by our actions prior to June 19, 1942, we could read in there—

“ . . . did by their conduct prior to bankruptcy waive any forfeiture rights they had under their leases to forfeit the same by reason of such non-payment of landowners' royalties.”

In other words, by the arrangement and by their petition herein they have brought us into court with the impression that the only conduct they were relying upon was our conduct prior to the time this matter came under Your Honor's juris- [35] diction.

The Referee: According to your contention they nail it down to the payments you accepted on June 19.

Mr. Bowker: That is correct, Your Honor. That was our assumption. Then they go on and say, “It now appears that, prior to bankruptcy,”—in other words, still prior to bankruptcy—“the landowners, after breaches of the conditions of their leases covering said wells accepted royalties under said leases from the debtor corporation with full knowledge

of all the facts and have been precluded thereby from enforcing any rights of forfeiture arising out of such non-payment, and are relegated to the status of general creditors herein with respect to such unpaid royalties.”

In other words, they are basing under this plan of arrangement by the Sovereign Oil Corporation and the Receiver herein, by their very own petition and by the arrangement itself, they have stated these acts or conduct must have occurred prior to the time this matter came under Your Honor’s jurisdiction. Therefore, we maintain the only matter before Your Honor is whether the landowners, prior to June 19, 1942, waived any of their rights to forfeit those rents by their conduct, and anything that happened subsequent thereto by reason of the cashing of this check is not before this Court today.

The Referee: Wasn’t June 19 the day on which they took [36] these Bank of America cashiers checks?

Mr. Bowker: It was June 17, your Honor. June 19, I believe, they filed their petition.

Mr. Dechter: Counsel does not read further in the petition, as follows:

“In connection with the administration of the Debtor’s estate and the consummation of said revised plan of arrangement, it is necessary that the status and rights of holders of said unpaid landowners’ royalties under said leases, arising since the commencement of this bankruptcy proceeding have been paid.”

Now, we are here to ask this Court to determine what that status is. We contend that that status is that of an unsecured creditor, because of acceptances of landowners' royalties after they were due, both before and after bankruptcy. In other words, they accepted these landowners royalties after they were due from the debtor; they accepted them after bankruptcy from the Receiver.

The Referee: Wouldn't one be sufficient?

Mr. Dechter: Certainly, Your Honor. In other words, they cannot rely upon some allegation that it is merely a conclusion. Here are the facts as they are disclosed to this Court, and this Court will draw its own conclusion. [37]

The Referee: It seems to me the crux of the whole thing is: Did you waive your right when you accepted these Bank of America cashiers checks on June 17?

Mr. Dechter: Exactly, Your Honor.

Mr. Bowker: That is right. We will stand on that, Your Honor. I think that is the question .

The Referee: Now do you want to introduce some testimony, any further testimony, or do you want a couple of days to brief this matter.

Mr. Welch: We have a witness.

The Referee: If we are agreed that is the fact, I don't see that any further testimony is necessary.

Mr. Welch: I think the whole gist of the case is contained in the proceedings so far, but we would like to introduce some evidence.

The Referee: All right, proceed. [38]

WILLIAM H. RAMSAUR

called as a witness on his own behalf, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Welch:

Q. Mr. Ramsaur, you are one of the committee elected by the landowners who leased the land upon which No. 1 well is located?      A. I am.

Q. And you were authorized by them to act in their behalf in regard to collecting royalties, and so on?      A. Yes, sir.

Q. You received the royalties prior to September 19, 1941?

A. After the decision of the Superior Court in our favor, what had accrued on No. 1, the Sovereign paid direct to this committee.

Q. What oil company?

A. The Sovereign Oil Corporation. When the reversal came from the Supreme Court we received no more money, and we understood they were being impounded.

Mr. Dechter: We move to strike out what the witness understood as a conclusion.

The Referee: Yes.

The Witness: What is that? [39]

The Referee: Tell us what you were told, not what you understood. Tell us what you were told by someone in authority as to payments. Did anybody tell you that the payments were not being made by the Sovereign Oil Corporation because of

(Testimony of William H. Ramsaur)

a reversal in the Supreme Court and that the money would be impounded by the Court?

The Witness: Yes. The Sovereign, according to the information we have from them——

Mr. Dechter: I can't hear you, Mr. Ramsaur.

The Witness: According to the Sovereign Oil Corporation the money was being placed in a separate fund to be paid on the determination, the final determination of this lawsuit.

The Referee: Who told you that?

The Witness: My attorney.

Mr. Dechter: We move to strike that as hearsay, Your Honor.

The Witness: He got it from them.

The Referee: I know, but that is secondhand.

Mr. Welch: Q. Did you ever call at the Sovereign Oil Corporation after this decision came down, the office of the Sovereign Oil Corporation?

A. No, I did not.

Q. You were not there, personally?

A. No.

Q. Did you have any knowledge of the fact that the [40] Sovereign Oil Corporation was in default on the payment of monthly royalties?

Mr. Dechter: To which we object on the ground it calls for a conclusion. He can ask whether or not he received his royalty.

The Referee: Yes, the better question would be to ask him if he received it. If he says he did not, it inevitably follows they were in default as far as he was concerned.

(Testimony of William H. Ramsaur)

Mr. Welch: All right, Your Honor.

The Referee: In other words, did you get your money as you should have gotten it under the terms of your lease?

The Witness: We shouldn't have gotten it because the Court held up the Court's order——

Mr. Dechter: Just a moment. We move to strike that as a conclusion of the witness.

The Referee: You had better ask him the questions yourself. I give up.

Mr. Hunt: The point is, he did not get it.

The Referee: I think that is conceded.

Mr. Welch: What is that, Your Honor?

The Referee: I think everybody concedes he did not get it.

Mr. Welch: What I want to do is show he had no knowledge they were in default and had no right to exercise his right of forfeiture.

Mr. Dechter: That is what the Court has to decide. If [41] this witness could decide that question we would not need the Court.

Mr. Welch: It is a matter of knowledge.

The Referee: You can ask what the facts were.

Mr. Welch: Q. Did you know from any source that the Sovereign Oil Corporation was in default?

A. No.

Mr. Dechter: To which we object upon the ground it calls for a conclusion of the witness.

The Referee: That is true. As I understand your answer, you did not know they had ceased paying the royalties. Is that what you mean?

(Testimony of William H. Ramsaur)

The Witness: Into some fund, yes.

The Referee: Into some fund?

The Witness: It was to be paid out later upon final determination of the Court, upon the final determination of the suit.

Mr. Welch: Q. When did you first learn they were in default for the March, April, May, and June payments?

A. Well, I didn't know it until after they had gone into bankruptcy, because Mr. McCray got that check and I didn't get the information until several days later that they hadn't paid in full.

Mr. Welch: I think that is all.

The Referee: Let me ask a question.

The Witness: Yes, sir. [42]

The Referee: Was Mr. McCray authorized to act for you or for any committee? Did you authorize him to act for you in the matter of collecting your royalties?

The Witness: I asked him to try and secure the royalties so that when this case was settled we could divide the money according to the Court decision.

Mr. Welch: Q. Mr. McCray was a member of the committee with you, wasn't he?

A. Yet's see. No, not at that time. Was he? There were two groups of defendants here by the Sovereign, Group No. 1 and Group No. 2. Mr. McCray represented Group No. 2 and I was chairman of the committee for Group No. 1. Through the attorney's office Mr. McCray was authorized to try

(Testimony of William H. Ramsaur)

to secure this money and have it put into a fund so that it would be available at the time.

Mr. Welch: That is all.

The Referee: Any other questions?

Cross Examination

By Mr. Dechter:

Q. Mr. Ramsaur, you knew, did you not, that you yourself had not received any royalty on June 7, 1942 for a period of at least eight or nine months?

A. Well, we weren't to receive any from the oil company after this reversal of the Court decision.

Q. That was about December of 19—— [43]

A. (Interrupting): Oh, it was over a year.

Q. Over a year?

A. Yes. The Court's decision was a reversal, and they would not pay the money to anyone.

Q. I show you Receiver's Exhibit B, Mr. Ramsaur, which is a receipt dated June 17, 1942, signed by A. A. McCray, and in which he acknowledges receipt of check No. 417340 of the Union Bank and Trust Company in favor of A. A. McCray, William Ramsaur, and F. R. C. Fenton for \$4,016.77. Are you the William Ramsaur that is mentioned in that check? A. I am.

Q. Did Mr. McCray deliver your share of the proceeds of that check?

A. That was not the way it was done.

Q. Did you get any portion of the proceeds of that check?

(Testimony of William H. Ramsaur)

A. After, along towards the last of June, yes.

Q. Was it about June 17, 1942?

A. No, it was in the latter part of June, quite a bit after that. In fact, I didn't know this check was paid until several days later.

Q. But you did get a portion of that check, did you not?      A. Later on, yes.

Q. How much was that payment?

A. My portion?

Q. Yes. [43a]

A. That is hard to say.

Q. Well, approximately?

A. Well, I suppose about \$150.00, something like that.

Q. At the time you received that check you knew that check was not in full for royalty up until June, did you not?

A. Why, certainly, but I didn't get it until way after the—

Q. Just a moment. And you knew that check did not include royalty that was owing to you and the other landowners for March, April, May, and June, 1942, did you not?

A. At what time?

Q. When you got your portion of this money?

A. The last of June, yes.

Mr. Dechter: That is all.

The Referee: Any other questions?

Mr. Welch: That is all.

The Referee: All right. If there are no other questions from this witness, he may step aside.

Mr. Bowker: I will call Mr. McCray. [44]

ALLAN A. McCRAY,

called as a witness on his own behalf, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Bowker:

Q. Mr. McCray, you are an officer of the Edlou Corporation? A. Yes, I am.

Q. The Edlou Corporation is one of the landowners in No. 1 Well? A. Yes.

Q. Is the Edlou Corporation a landowner in No. 2 Well? A. Yes.

Q. Is the Edlou Corporation a landowner in No. 4 Well? A. Yes.

Q. Mr. McCray, are you also an officer of the Elsie Oil Company?

A. I was until the dissolution of the Elsie Oil Company in 1940.

Q. Subsequent to the dissolution of the Elsie Oil Company in 1940, was there distributed to you portions of interest in these leases, No. 2 and 4?

A. Yes, there were.

Q. Now, Mr. McCray, I will ask you if during or at any time during the spring of 1942, if you called on any of the [45] officers of the Sovereign Oil Company? A. Yes, I did.

Q. Can you recall specifically, Mr. McCray, about what date it was when you made one of your first visits, or approximately, to the best of your recollection?

A. Well, it was some time in April.

Q. Some time in April, 1942, is that correct?

A. That is correct.

(Testimony of Allan A. McCray.)

Q. Whom did you talk to at that time?

A. I talked to Mr. Smith, president of the Sovereign Oil Corporation.

Q. Was there anyone else present?

A. I don't recall at the first visit. I think Miss Taylor was in the outer office. I talked with Mr. Smith.

Q. What did your discussion relate to, Mr. McCray? Tell the Court in your own words what the essence of the discussion was, what you said and what Mr. Smith said relative to this particular problem of payments of oil royalties.

A. Well, I asked Mr. Smith what was the reason the royalties had not been forthcoming on various wells at El Segundo. He apologized and said they were not forthcoming because of the fact the oil had been sold to the Triangle Refining Company, and the Triangle Refining Company had been slow in paying them, and that they would get the checks within a very short time from the Triangle Refining Company [46] and would then pay us our royalties.

Q. Was the question brought up at that time, Mr. McCray, relative to any moneys impounded by reason of a lawsuit?

A. Yes. I don't know if it was specifically at that time, but I asked subsequently.

Q. Well, at that time was anything said?

A. I don't recall at that particular time.

Q. Do you recall a subsequent visit to their office?

A. Yes.

(Testimony of Allan A. McCray.)

Q. Well, when was that subsequently?

A. Well, that was later on in April, and I made several visits in May.

Q. Later on in April was anything said about this money impounded or any money impounded or anything relative to a lawsuit?

A. Yes. I asked Miss Taylor later on where the money was going, and she said the money the Sovereign had for current royalty was being put into a separate fund. Later on, Mr. Cooney assured me that the money for the No. 1 Well was being put in a separate fund until the final determination of that lawsuit, as to whether Group No. 1 was to get it or Group No. 2 was going to get it.

Q. In other words, he assured you, then, that the royalties were being placed in a separate account for your benefit? [47]

A. That is right.

Q. For the benefit of the landowners of Well No. 1? A. That is right.

Q. And that the landowners would get it as soon as a Court decision was rendered, is that right?

A. That is right.

Mr. Bowker: Your Honor, may I have the Exhibit relative to the judgment in this case?

The Referee: The Clerk has it. \* \* \*

Mr. Bowker: Q. Mr. McCray, I show you a copy of a judgment entitled, Sovereign Oil Corporation versus F. R. C. Fenton, et al., and so forth, and ask you if you are connected with the Edlou Company named there, if you were the secretary of that company? A. Yes, I am.

(Testimony of Allan A. McCray.)

Q. You are familiar with this lawsuit?

A. Yes, I am.

Mr. Bowker: The record shows here that the judgment was signed on June 9, 1942.

The Referee: It is a Superior Court judgment, is that right?

Mr. Bowker: Yes, Your Honor, it is a Superior Court judgment. I was one of the attorneys in the case.

The Referee: What about the time for appeal?

Mr. Bowker: The time for appeal has lapsed, and no appeal has been taken. [48]

I might state, Your Honor, that I was one of the attorneys in that case which was first tried in the Superior Court and sent up and was then reversed, and sent to the Appellate Court, and the Appellate Court reversed the Superior Court and sent it back to the trial court for a new trial. At that time there was a compromise between the parties to the interpleader. A stipulation of compromise was filed, and this judgment was based upon that compromise. So this is the judgment.

The Referee: All right.

Mr. Bowker: Q. Now, Mr. McCray, were you notified by your attorneys that there was a judgment entered on June 9, 1942 in this case?

A. Yes, I was.

Q. Thereafter, did you go down to the Sovereign Oil Corporation offices? A. Yes, I did.

Q. Do you remember the approximate date?

A. It was around June 11 or 12.

Q. Do you remember who was present at that time?

(Testimony of Allan A. McCray.)

A. Miss Taylor was present at that time.

Q. Anybody else?

A. And Mr. Cooney, I believe.

Q. Did you at that time request that the money be paid?           A. Yes, I did.

Q. What was said by the parties relative to the payment [49] of money at that time?

A. The Sovereign were waiting to hear from—that they had to hold a meeting of the Board of Directors of the Sovereign Oil Corporation, and that they had to get word from their attorney before they could pay out the money.

Q. All right.

A. They wanted to be sure the judgment was entered and would not pay out the money to anyone unless in accordance with court instructions, and they had not received proper word from their attorney to pay the money out.

Q. At that time, Mr. McCray, did they inform you they had all the money that was due and owing?

Mr. Dechter: We object to counsel leading the witness. The witness can take care of himself.

The Referee: You might as well testify yourself, counsel, as to ask leading questions. Just ask him what was said.

Mr. Bowker: All right, Your Honor.

Q. What was said at that time, Mr. McCray?

A. I think I told you substantially what was said, Mr. Bowker.

Mr. Bowker: All right.

The Referee: Is it not a fact you went there

(Testimony of Allan A. McCray.)

and asked for your money and they told you they would not pay it out because of lack of knowledge of the finality of this judg- [50] ment.

The Witness: Yes.

The Referee: Then some time later you accepted these Bank of America cashiers checks?

The Witness: That is right.

Mr. Bowker: Q. Now, Mr. McCray, at the time you accepted the Bank of America cashiers checks, what was the discussion at that time?

A. I asked them at that time, I said, "Well, these checks only pay up to March 1. Where is the royalty payable up to the month of March and April?" The May royalty would not become due until June 20 under the lease.

They said, "Well, we don't have the money on hand. The money is not on hand." But they had it in the form of cashiers checks which they turned over to me up to March 1.

Mr. Cooney said, "Well, in a very short time we will be getting the check from the Standard Oil Company on the sale of our oil. It will be around the 20th of June. We will get a check for approximately \$7700.00, and when we get that check, we have some operating expenses, and we can use a greater portion of that check to clear up the balance of the royalty on your well."

Q. When was it first brought to your attention, Mr. McCray, that the Sovereign Oil Corporation did not have all of the funds on hand to make the payments through May of 1942? [51]

(Testimony of Allan A. McCray.)

A. The first definite evidence I had was when they told me they did not have any more, and that is all they could pay me was to pay to March 1, and that was right around June 17 when I received the money from that.

Mr. Bowker: That is all, Your Honor.

Cross Examination

By Mr. Dechter:

Q. Calling your attention to the last conversation when you asked them what about the checks for the royalties for March and April when they gave you the cashiers checks which you receipted on Receiver's Exhibit 3? You referred to the royalties shown on Receiver's Exhibit 1 for March, \$813.61, and April, \$630.59, did you not?

A. That is right.

Q. Now you were also a landowner on Wells No. 2 and 4, is that right?      A. That is right.

Q. Showing you portions of Receiver's Exhibit 2, consisting of a series of checks, I will show you check No. 8054, dated March 20, 1942, for \$44.38, being 2% override, December, 1941.

You received that check, did you not?

A. Yes, I did.

Q. That bears your endorsement on the back?

A. That is right. [52]

Q. At that particular time you had not been paid, had you, for the royalty for January and February, is that correct?

A. What well are you talking about?

(Testimony of Allan A. McCray.)

Q. This check I am showing to you now, you got a check which said, 2% override royalty, December, 1941, Community No. 2 well.

A. That is right.

Q. At that time when you received that check for \$44.38, there was owing to you the royalty for January and February? A. That is right.

Q. And you received that check when you knew that you had not received that royalty for January and February, did you not?

A. That is right.

Q. Now I will show you another check dated March 20, 1942, No. 8053 made out to the Bank of America for \$369.85, "One-sixth royalty, December, 1941, Community No. 2." You were a landowner in that well, also? A. That is right.

Q. You participated in the distribution received by the Bank of America? A. Yes, sir.

Q. On March 20, or thereabouts, when you received the distribution of that share, you knew the royalty for [53] January and February had not been paid by the Sovereign Oil Corporation, did you not?

A. That is right.

Q. Community No. 2 Well is which one, is that Sovereign No. 2 Well?

A. I get twisted on these names. Community No. 2 is Sovereign No. 2, that is right.

Q. And Elsie No. 2 is Sovereign No. 4, is that right? A. That is right.

Q. Showing you another check, Mr. McCray, No. 8055, dated March 20, 1942, made out to the Bank of

(Testimony of Allan A. McCray.)

America for \$272.36, with the notation "Elsie No. 2, one one-sixth royalty, December, 1941," you received your share of that participation, also?

A. That is right.

Q. At the time you received your share of that distribution you knew the January and February royalty had not been paid, did you not?

A. That is right.

Q. Now, calling your attention to another check dated March 20, 1942, No. 8056, made out to A. A. McCray, Trustee, for \$115.33, with the notation "Elsie No. 2 Well, December, 1941, 2% override royalty," you received and cashed that check, did you not?

A. That is right.

Q. You knew at the time you cashed that check the over- [54] riding royalty to you on Sovereign Well No. 4 had not been paid for January and February, 1942, did you not?

A. That is right.

Q. Showing you a number of checks, Mr. McCray, made out on all these three wells, starting with August, 1942 down to October, 1942—

Mr. Bowker: If Your Honor please, I would like to offer an objection on that.

Mr. Dechter: May I finish my question, please?

Mr. Bowker: Excuse me, counsel.

Mr. Dechter: (Continuing) Q. You received your share of those checks, did you not?

A. These checks?

Mr. Bowker: Your Honor, I will offer my objection to that question on the grounds it is immaterial

(Testimony of Allan A. McCray.)

and irrelevant to this issue, inasmuch as those checks were received subsequent to the appointment of the receiver, and are not before this Court.

The Referee: It shows the conduct. I will overrule the objection.

You got the money from the Receiver right along, didn't you?

The Witness: Yes, Your Honor.

Mr. Dechter: Q. At the time you received that money from the Receiver you knew the royalty on No. 1 Well from March to the first eighteen days of June had not been paid? [55]

A. Yes, that is right.

Q. You knew the royalty from January to June 18 of 1942 on Sovereign Well No. 2 had not been paid? A. At what time?

Q. At the time you received the checks from the Receiver for current landowners' overriding royalties.

A. Well, I received the checks from the Receiver, Mr. Dechter, over a period of several months, and during several months of receivership, I found out what months they were unpaid on and was able to determine how much was owing. It was not right after the receivership. It was a period of five or six months I received checks from the Receiver.

Q. Whenever you received checks from the Receiver, there was a notation on them showing what it was for, is that right? A. Yes, that is right.

Q. The first check you received from the Receiver was paid on August 17, 1942 for \$270.84

(Testimony of Allan A. McCray.)

which recited it was on El Segundo No. 1 Well, landowners' royalty for June, 1942, did it not?

A. Yes.

Q. When you received that check you knew the landowners' royalty up until June 18 had not been paid to you?

A. That is right.

Q. That was true on all subsequent checks, is that right? [56]

A. Yes, that is right.

Q. In other words, each one of these checks showed for what month the royalty was paid?

A. That is right.

Q. The next check you received was royalty for July, 1942?

A. That is right.

Q. At that time you also knew the royalty for the months from January to June 18 had not been paid?

A. At what time?

Q. When you cashed the check from the Receiver dated August 17, 1942, the \$669.73, with the notation, "El Segundo No. 1 Well, 16 2/3 royalty, July, 1942."

A. No. As I said before, I didn't know for what months until later on, after I had received several months. I think August was the second month's check received from the Receiver.

Q. Do you mean to say these notations on the checks showing what the checks were for were not on them when you received them?

A. No, I didn't say that.

Q. All right.

A. I say I didn't know for what specific months royalty was owed on No. 2 Well and No. 4 Well

(Testimony of Allan A. McCray.)

until I had received several of these checks. I didn't at any particular time until I had received a lot of these checks. [57]

Q. After the Receiver was appointed in this matter you knew you had not received royalties on Well No. 1 from March to June 18, 1942?

A. Yes, I did.

Q. After the Receiver was appointed, you knew you had not received royalties on Well No. 2 from January to June 18, 1942?

A. That is correct.

Q. After the Receiver was appointed, you knew you had not received royalties on Well No. 4 from January to June 18, 1942?

A. That is right.

Q. When you received these checks from the Receiver, these notations as to what they were for were on there, were they not?

A. Yes, they were.

Mr. Dechter: That is all.

The Referee: Any other questions, gentlemen?

Mr. Bowker: No questions, Your Honor.

Mr. Welch: No questions.

The Referee: Is there any further testimony, gentlemen?

Mr. Welch: I have a copy of the Register of Actions which I would like to introduce.

Mr. Dechter: I cannot see the materiality of it, Your Honor.

The Referee: I don't know what it is. [58]

Mr. Welch: It is a Register of Actions of the Sovereign Oil Corporation against landowners.

The Referee: Have you the final judgment here?

Mr. Welch: Yes, Your Honor, but this is for the purpose of showing it was pending.

Mr. Dechter: It shows a lot of entries up until 1939, and then there is a hiatus. In 1942 there is a stipulated compromise judgment. I don't see what bearing it has, Your Honor.

Mr. Welch: Except it is stipulated this case was pending, and this money was being held under order of court.

The Referee: As I see it, it would merely be cumulative. The case was tried and reversed, appealed, and sent back.

Mr. Welch: Very well, it would be cumulative.

The Referee: In other words, why gild the lily?

Mr. Welch: Very well, Your Honor.

The Referee: Now what is the next bit of proof you have to offer?

Mr. Dechter: The Receiver rests in this matter.

The Referee: Now, you gentlemen will want to present briefs.

Mr. Welch: We would like to do that within a day or two.

The Referee: Serve a copy on Mr. Dechter.

Mr. Welch: I shall be glad to do that, Your Honor.

The Referee: Anything further, gentlemen?

Mr. Hunt: No, Your Honor. There are three other matters [59] that must be attended to in connection with this hearing today. The first matter is that of the Receiver's report.

The Referee: Well, before we go into that, I will state that this matter stands submitted until the 21st. Get your points and authorities, and present them to opposing counsel.

Mr. Bowker: I have a couple of cases here, if the Court cares to read them.

The Referee: You had better present them in one brief, but be sure they are in point, will you?

Mr. Bowker: Yes, Your Honor.

(Which was all the evidence offered and received in the above entitled cause at the time and place aforesaid.) [60]

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State of California,  
County of Los Angeles.—ss.

I, Byron Oyler, Official Court Reporter for the Honorable Hugh L. Dickson, Referee in Bankruptcy, do hereby certify that on December 17, 1942, at 1:00 a. m. and 2:00 p. m., I reported the Matter of the Sovereign Oil Corporation, Debtor, in re. Hearing on Order to Show Cause on Holders of Landowners' Royalties; that the foregoing sixty pages are a full, true, and accurate transcript of my shorthand notes in said proceeding.

In Witness Whereof, I have hereunto set my hand  
this twenty-eighth day of January, 1943.

BYRON OYLER

Official Court Reporter.

[Endorsed]: Filed Feb. 3, 1943. Hugh L. Dick-  
son, Referee. C. M. Commins, Clerk, H.N.

[Endorsed]: Filed Feb. 8, 1943 Edward L.  
Smith, Clerk, by E. M. Enstrom, Jr., Deputy. [61]

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In the District Court of the United States, Southern  
District of California, Central Division  
In Proceedings Under Chapter XI

No. 40,852-B

In the Matter of

SOVEREIGN OIL CORPORATION, a corpora-  
tion,

Debtor.

PROOF OF CLAIM

At Los Angeles, in the Southern District, Central  
Division of California, in the County of Los An-  
geles, State of California, on the 13th day of August,  
A. D. 1942, came A. A. McCray, Wm. H. Ramsaur  
and F. R. C. Fenton, and made oath and said:

1. That we all reside in the County of Los An-  
geles, State of California, and constitute the duly  
authorized committee chosen by the lessors herein-  
after designated as claimants, who executed that  
certain oil and gas lease designated as "El Segundo

Block 31 Community Oil and Gas Lease'' on November 24, 1937, which lease was executed by the Debtor as lessee. That we have been duly authorized by claimants to make this deposition. That each of us has knowledge of the facts upon which this claim is based and of all the facts set forth herein, and each of us is a lessor and claimant.

2. That on or about the 24th day of November, 1937 the claimants herein executed an oil and gas lease conveying Lots 1 to 18 inclusive in Block 31 of the Townsite of El Segundo as per map in Book 18, Page 69 of Maps, Los Angeles County records, to the debtor herein as lessee. That said lessee by the terms of said lease agreed to pay to claimants as royalty a certain percentage of the value of the oil produced from said land. That the Debtor drilled a producing oil well on said premises. That by the terms of said lease the Debtor was required to pay to claimants 16-2/3 per cent of the value of the oil produced by said well during the months of March, April, May and June of the year 1942. That on the 19th day of June, 1942 this Court appointed a receiver who took over the operation of said well. That royalties for the months of March, April, May and that part of June during which the Debtor operated said well, were not paid. That claimants are dependent upon statements issued by the Debtor to ascertain the exact amount of royalties during said period. That such statements have not been issued to claimants by the Debtor. That claimants have data furnished by Shepard-Pendleton & Company, which company is engaged in the business of check-

ing the production of oil wells and that from the data so furnished claimants have calculated that the amount due and owing from the Debtor to claimants for the period above mentioned, from the 1st day of March until the 19th day of June, 1942, is \$2,687.58. That claimants ask leave to amend this proof of claim when they have ascertained the exact amount due for delinquent royalties above mentioned.

That Debtor has withheld for a long period of time from royalty payments to these claimants an amount equal to 2c per barrel for the stated purpose of paying mineral taxes levied by the State of California upon the production of oil from the above mentioned lease. That said amount so withheld has been in excess of the amount of said mineral taxes chargeable to claimants under the terms of said lease. That claimants do not know the exact amount of the excess so withheld as they are dependent for that information upon statements issued by the debtor which were not received, but that claimants can approximate said amount so due from taxes heretofore accounted for, and therefore state that the excess amount so withheld was and is approximately \$200.00, which is justly due and owing to these claimants.

That the total amount of the aforesaid indebtedness consisting of delinquent royalties and excess amount of money withheld to pay taxes, is \$2,887.58.

No part of said debt has been paid.

There are no set-offs or counterclaims to said debt.

No judgment has been rendered for said debt.

Neither the claimants nor any person by the order of the claimants or to knowledge or belief of the claimants, has had or received any manner of security for said debt whatever, other than as above stated.

A. A. McCRAY

WM. H. RAMSAUR

F. R. C. FENTON

Committee for Claimants.

Subscribed, sworn to and acknowledged before me, this 13 day of August, 1942, said subscribers being known to me to be the persons described in and who signed, swore to and acknowledged the above instrument.

[Seal] . M. E. MARSH

Notary Public in and for the County of Los Angeles, State of California

My Commission Expires June 15, 1945

[Endorsed]: Filed Aug. 13, 1942. Hugh L. Dickson, Referee. C. M. Commins, Clerk.

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[Title of District Court and Cause.]

PROOF OF CLAIM OF A. A. McCRAY, TRUSTEE, FOR HOLDERS OF OVERRIDING ROYALTIES IN EL SEGUNDO COMMUNITY LEASE No. FOUR-A.

At Los Angeles, in the Southern District, Central Division of California, in the County of Los An-

geles, State of California, on the fourth day of December, A. D. 1942, came A. A. McCray, Trustee for M. C. McCray, A. A. McCray, Ruth D. Cornell, and Britt L. Bowker, and made oath and said;

1. That I reside in the County of Los Angeles, State of California. That until the thirty-first day of December, 1940, the Elsie Oil Company was a California corporation duly authorized to transact business in the State of California, and that on said date said corporation was dissolved pursuant to the laws of the State of California and pursuant to said dissolution all of the assets of said corporation were duly assigned to A. A. McCray, Britt L. Bowker, Ruth D. Cornell, and M. C. McCray in undivided one-fourth interests. That among the assets of said corporation which were distributed was the interest in the assignment of that certain oil and gas lease as hereafter set forth. That subsequent to said dissolution claimant was appointed and authorized to act as trustee for the collection and disbursement of all royalties as hereinafter described, by the aforementioned individuals.

2. That on or about the thirty-first day of March, 1937, the said Elsie Oil Company executed an oil and gas lease known as El Segundo Community Lease No. Four-A dated the thirty-first day of March, 1937, as lessee with certain landowners as designated in said lease as lessors. That, thereafter, on or about the twenty-third day of May, 1938, said Elsie Oil Company assigned to Imperial Corporation, a Nevada corporation a portion of said lease reserving to itself certain over-riding royalties to-wit:

(a) On all wells which produce a daily average of less than two hundred (200) barrels of net clean oil during any calendar month, an overriding royalty of two percent (2%) of the value of all oil, gas, both wet and dry, gasolines and all other hydrocarbon substances produced, saved, and sold during said calendar month.

(b) On all wells which produce a daily average in excess of two hundred (200) barrels of net clean oil during any calendar month, an overriding royalty of three and one-third percent ( $3\frac{1}{3}\%$ ) of the value of all oil, gas, both wet and dry, gasolines and all other hydrocarbon substances produced, saved, and sold during said calendar month.

In addition to the royalty hereinabove reserved to Elsie and subject to the limitation, terms and conditions hereinafter in this paragraph set forth, Elsie hereby reserves unto itself, its successors and assigns, an overriding royalty of five percent (5%) of the value of the oil, only produced saved and sold on or from the real property covered by the assignment executed concurrently herewith, such overriding royalty to be paid to Elsie, however, only until such time as Elsie shall have received from the proceeds of the overriding royalty herein in this paragraph reserved, the sum of Five Thousand Dollars (\$5,000.00) for each well drilled.

Claimant is informed and believes, and upon such information and belief alleges, that said Imperial Corporation assigned its interest under said oil and gas lease to Debtor and pursuant to said assignment Debtor agreed to be bound by the terms and conditions of said lease and of said assignment from Elsie Oil Company to Imperial Corporation including the payment of over-riding royalties as hereinabove set forth.

3. That said Debtor drilled a producing oil well on a portion of the land covered by said lease and covered by said assignments, to-wit:

Lots 1 to 37 both inclusive and Lots 39 and 40, Tract 3012, recorded in Map Book 29, Page 39, Records of Los Angeles County; and Lots 1 to 33 both inclusive, Tract 2028, recorded in Map Book 35, Page 37, Records of Los Angeles County; and Lot 79, Block 123 as per Sheet No. 8, El Segundo, recorded in Map Book 22, Pages 106-107, Records of Los Angeles County.

That pursuant to the terms of said assignment, from Elsie Oil Company as heretofore set forth, Debtor was required to pay to the said Elsie Oil Company two percent together with an additional five percent of the value of the oil produced by said well during the months of January, February, March, April, May, and June, 1942. That on the nineteenth day of June, this Court appointed a receiver who took over the operation of said well. That royalties for the months of January, February, March, April, May, and that part of June

during which the Debtor operated said well, were not paid. The claimant is dependent upon statements issued by the Debtor to ascertain the exact amount of royalties during said period. That according to data which claimant has in its possession, claimant calculates that the amount due and owing from Debtor to claimant for the period above mentioned, from the first day of January, 1942, until the nineteenth day of June, 1942, is the sum of \$422.85.

That the total amount of the aforesaid indebtedness consisting of delinquent royalties is \$422.85. That no part of said debt has been paid. There are no off-sets or counter claims to said debt. That no judgment has been rendered for said debt. That the claimant nor any other person by order of the claimant, or to knowledge or belief of the claimant, has had or received any manner of security for said debt whatever, other than above stated.

A. A. McCRAY

Trustee for M. C. McCray, A.

A. McCray, Ruth D. Cornell, and Britt L. Bowker.

Subscribed, sworn to and acknowledged before me, this fourth day of December, 1942, said subscriber being known to me to be the person described in and who signed, swore to and acknowledged the above instrument.

[Seal]                      LORRAINE TOPPING

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires December 15, 1943.

[Endorsed]: Filed Dec 5 1942. Hugh L. Dickson, Referee. O. M. Commins, Clerk, H. N.

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[Title of District Court and Cause.]

**PROOF OF CLAIM OF A. A. McCRAY, TRUSTEE, FOR HOLDERS OF OVERRIDING ROYALTIES IN EL SEGUNDO COMMUNITY LEASE No. TWO-B**

At Los Angeles, in the Southern District, Central Division of California, in the County of Los Angeles, State of California, on the fourth day of December, A. D. 1942, came A. A. McCray, Trustee for M. C. McCray, A. A. McCray, Ruth D. Cornell, and Britt L. Bowker, and made oath and said;

1. That I reside in the County of Los Angeles, State of California. That until the thirty-first day of December, 1940, the Elsie Oil Company was a California corporation duly authorized to transact business in the State of California, and that on said date said corporation was dissolved pursuant to the laws of the State of California and pursuant to

said dissolution all of the assets of said corporation were duly assigned to A. A. McCray, Britt L. Bowker, Ruth D. Cornell, and M. C. McCray in undivided one-fourth interests. That among the assets of said corporation which were distributed was the interest in the assignment of that certain oil and gas lease as hereafter set forth. That subsequent to said collection and disbursement of all royalties as hereinafter described, by the aforementioned individuals.

2. That on or about the third day of April, 1937, the said Elsie Oil Company executed an oil and gas lease known as El Segundo Community Lease No. Two-B dated the third day of April, 1937, as lessee with certain landowners as designated in said lease as lessors. That, thereafter, on or about the fourteenth day of April, 1938 said Elsie Oil Company assigned to Debtor a portion of said lease reserving to itself certain over-riding royalties to-wit:

(a) On all wells which produce a daily average of less than two hundred (200) barrels of net clean oil during any calendar month, an overriding royalty of two per cent (2%) of the value of all oil, gas, both wet and dry, gasolines and all other hydrocarbon substances produced, saved, and sold during said calendar month.

(b) On all wells which produce a daily average in excess of two hundred (200) barrels and less than seventeen hundred fifty (1750) barrels of net clean oil during any calendar month, an overriding royalty of three and one-

third per cent (3-1/3%) of the value of all oil, gas, both wet and dry, gasolines and all other hydrocarbon substances produced, saved, and sold during said calendar month.

(c) On all wells which produce a daily average in excess of seventeen hundred fifty (1750) barrels of net clean oil during any calendar month, an overriding royalty of five and eighty-four hundredths per cent (5.84%) of the value of all oil, gas, both wet and dry, gasolines and all other hydrocarbon substances produced, saved, and sold during said calendar month.

3. That said Debtor drilled a producing oil well on a portion of the land covered by said lease and covered by said assignment, to-wit:

Lots 1 to 18 inclusive, Block 32, as per Sheet No. 1 El Segundo, recorded in Map Book 18, Page 69, Records of Los Angeles County.

That pursuant to the terms of said assignment as heretofore set forth, Debtor was required to pay to Elsie Oil Company, 2% of the value of the oil produced by said well during the months of January, February, March, April, May, and June of the year 1942. That on the nineteenth day of June, this Court appointed a receiver who took over the operation of said well. That royalties for the months of January, February, March, April, May, and that part of June during which the Debtor operated said well, were not paid. The claimant is dependent upon statements issued by the Debtor to ascertain the exact amount of royalties during said period.

That according to data which claimant has in its possession, claimant calculates that the amount due and owing from Debtor to claimant for the period above mentioned, from the first day of January, 1942 until the nineteenth day of June, 1942, is the sum of \$149.88.

4. That the total amount of the aforesaid indebtedness consisting of delinquent royalties is \$149.88. That no part of said debt has been paid. There are no off-sets or counter claims to said debt. That no judgment has been rendered for said debt. That the claimant nor any other person by order of the claimant, or to knowledge or belief of the claimant, has had or received any manner of security for said debt whatever, other than above stated.

A. A. McCRAY

Trustee for M. C. McCray, A.  
A. McCray, Ruth D. Cornell,  
and Britt L. Bowker.

Subscribed, sworn to and acknowledged before me, this fourth day of December, 1942, said subscriber being known to me to be the person described in and who signed, swore to and acknowledged the above instrument.

[Seal] LORRAINE TOPPING

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires December 15, 1943.

[Endorsed]: Filed Dec 5 1942. Hugh L. Dickson, Referee. O. M. Commins, Clerk. H. N.

[Title of District Court and Cause.]

PROOF OF CLAIM OF EDLOU COMPANY,  
ET AL, LANDOWNERS IN EL SEGUNDO  
COMMUNITY LEASE No. FOUR-A.

At Los Angeles, in the Southern District, Central Division of California, in the County of Los Angeles, State of California, on the fourth day of December, A. D. 1942, came Edlou Company, a California corporation, by A. A. McCray, Secretary, who on behalf of said corporation made oath and said;

1. That I am the secretary of Edlou Company, a corporation incorporated by and under the laws of the State of California and carrying on business at 8306 Wilshire Blvd., Beverly Hills, County of Los Angeles, State of California, and that I am duly authorized to make this proof of debt.

2. That said corporation is one of the community lessors of that certain oil and gas lease known as El Segundo Community Lease No. Four-A dated the thirty-first day of March, 1937, by and between Elsie Oil Company, as lessee, and C. E. Hoyt, et al, as lessors, and recorded in Book 15280, Page 285, Official Records of Los Angeles County. That thereafter, on or about the twenty-third day of May, 1938, said Elsie Oil Company assigned to Imperial Corporation, a Nevada corporation, a portion of the land covered by said lease. That pursuant to the terms of said lease and said assignment, said Debtor agreed to be bound by all of the terms and conditions of the original lease and to pay all royalties

called for thereunder. Claimant is informed and believes, and upon such information and belief alleges that said Imperial Corporation assigned its interest under said oil and gas lease to Debtor and pursuant to said assignment Debtor agreed to be bound by the term and conditions of said lease including the payment of royalties due landowners as provided for therein.

3. That said Debtor drilled a producing oil well on the land covered by said lease and said assignment, to-wit:

Lots 1 to 40 inclusive, Tract No. 3012 El Segundo, recorded in Map Book 29, Page 39; and Lots 1 to 33 inclusive, Tract No. 2028, El Segundo, recorded in Map Book 35, Page 37 and Lot 9, Block 123, ac per Sheet No. 8, El Segundo recorded in Map Book 22, Pages 106-107, Records of Los Angeles County.

That pursuant to the terms of the original lease on said premises and assignment from Elsie Oil Co. thereto as heretofore set forth, Debtor was required to pay to Edlou Company and all other landowners of said El Segundo Community Lease No. Four-A, 16-2/3% of the value of the oil produced by said well during the months of January, February, March, April, May, and June of the year 1942. That on the nineteenth day of June, 1942 this Court appointed a receiver who took over the operation of said well. That royalties for the months of January, February, March, April, May, and that part of June during which the Debtor operated said well, were not paid. The claimant is dependent upon

statements issued by the Debtor to ascertain the exact amount of royalties during said period. That according to data which claimant has in its possession, claimant calculates that the amount due and owing from Debtor to claimant and said remaining landowners for the period above mentioned, from the first day of January, 1942 until the nineteenth day of June, 1942 is the sum of \$986.45.

4. That Debtor has withheld for a long period of time from royalty payments to claimant and other-landowners under said lease and to said Elsie Oil Company under said assignment from Elsie Oil Company an amount equal to two cents per barrel for the stated purpose of paying mineral rights taxes levied by the County of Los Angeles upon the production of oil from the above mentioned property. That said amount so withheld has been in excess of the amount of said mineral rights taxes chargeable to landowners under said lease and to said Elsie Oil Company under said assignment. That claimant is dependant upon statements issued by Debtor to determine the exact amount of excess so withheld as well as to the prorata share of said amount chargeable to landowners and Elsie Oil Company. That according to information furnished claimant by Debtor the total amount of excess so withheld is \$86.49.

5. That the total amount of the aforesaid indebtedness consisting of delinquent royalties and refund due for taxes is \$1,072.94. That no part of said debt has been paid. There are no off-sets or counter claims to said debt. That no judgment has

been rendered for said debt. That the claimant nor any other person by order of the claimant, or to knowledge or belief of the claimant, has had or received any manner of security for said debt whatever, other than above stated.

6. That there are in excess of sixty lessors named in said community oil and gas lease and that a number of said lessors reside in different parts of the country and that several of ths lessors have requested claimant to look after their interests and that it is impractical and unreasonable for all of the lessors to file claims and that claimant, as a landowner and lessor in said aforementioned lease, makes this proof of claim on behalf of itself and all other landowners and lessors under said lease.

EDLOU COMPANY

By A. A. McCRAY

Secretary

Subscribed, sworn to and acknowledged before me, this fourth day of December, 1942, said subscriber being known to me to be the secretary of the Edlou Company and the person described in and who signed, swore to and acknowledged the above instrument.

[Seal] LORRAINE TOPPING

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires December 15, 1943.

[Endorsed]: Filed Dec 5 1942. Hugh L. Dickson, Referee. O. M. Commins, Clerk. H.N.

[Title of District Court and Cause.]

PROOF OF CLAIM OF EDLOU COMPANY, ET  
AL, LANDOWNERS IN EL SEGUNDO  
COMMUNITY LEASE No. TWO-B.

At Los Angeles, in the Southern District, Central Division of California, in the County of Los Angeles, State of California, on the fourth day of December, A. D. 1942, came Edlou Company, a California corporation, by A. A. McCray, Secretary, who on behalf of said corporation made oath and said;

1. That I am the secretary of Edlou Company, a corporation incorporated by and under the laws of the State of California and carrying on business at 8306 Wilshire Blvd., Beverly Hills, County of Los Angeles, State of California, and that I am duly authorized to make this proof of debt.

2. That said corporation is one of the community lessors of that certain oil and gas lease known as El Segundo Community Lease No. Two-B, dated the third day of April, 1937, by and between Elsie Oil Company, as lessee, and El Segundo Land and Improvement Company et al as lessors, and recorded in Book 15448, Page 261 of Official Records of Los Angeles County. That thereafter on or about the fourteenth day of April, 1938, said Elsie Oil Company assigned to Debtor a portion of the land covered by said lease. That pursuant to the terms of said lease and said assignment, said Debtor agreed to be bound by all of the terms and conditions of the original lease and to pay all royalties called for thereunder.

3. That said Debtor drilled a producing oil well on the land covered by said lease and said assignment, to-wit:

Lots 1 to 15 inclusive, Block 32 as per Sheet No. 1, El Segundo, recorded in Map Book 18, Page 69, Records of Los Angeles County.

That pursuant to the terms of the original lease on said premises and assignment thereto as heretofore set forth, Debtor was required to pay to Edlou Company and all other landowners of said El Segundo Community Lease No. Two-B, 16-2/3% of the value of the oil produced by said well during the months of January, February, March, April, May, and June of the year 1942. That on the nineteenth day of June, 1942 this Court appointed a receiver who took over the operation of said well. That royalties for the months of January, February, March, April, May, and that part of June during which the Debtor operated said well, were not paid. The claimant is dependent upon statements issued by the Debtor to ascertain the exact amount of royalties during said period. That according to data which claimant has in its possession, claimant calculates that the amount due and owing from Debtor to claimant and said remaining landowners for the period above mentioned, from the first day of January, 1942 until the nineteenth day of June, 1942 is the sum of \$1,248.32.

4. That Debtor has withheld for a long period of time from royalty payments to claimant and

other landowners under said lease and to said Elsie Oil Company under said assignment an amount equal to two cents per barrel for the stated purpose of paying mineral rights taxes levied by the County of Los Angeles upon the production of oil from the above mentioned property. That said amount so withheld has been in excess of the amount of said mineral rights taxes chargeable to landowners under said lease and to said Elsie Oil Company under said assignment. That claimant is dependent upon statements issued by Debtor to determine the exact amount of excess so withheld as well as to the pro-rata share of said amount chargeable to landowners and Elsie Oil Company. That according to information furnished claimant by Debtor the total amount of excess so withheld is \$98.23.

5. That the total amount of the aforesaid indebtedness consisting of delinquent royalties and refund due for taxes is 1,346.55. That no part of said debt has been paid. There are no off-sets or counter claims to said debt. That no judgment has been rendered for said debt. That the claimant nor any other person by order of the claimant, or to knowledge or belief of the claimant, has had or received any manner of security for said debt whatever, other than above stated.

6. That there are in excess of fifty lessors named in said community oil and gas lease and that a number of said lessors reside in different parts of the country and that several of the lessors have requested claimant to look after their interests and that it is impractical and unreasonable for all of

the lessors to file claims and that claimant, as a landowner and lessor in said aforementioned lease, makes this proof of claim on behalf of itself and all other landowners and lessors under said lease.

EDLOU COMPANY

By A. A. McCRAY

Secretary

Subscribed, sworn to and acknowledged before me, this fourth day of December, 1942, said subscriber being known to me to be the Secretary of the Edlou Company and the person described in and who signed, swore to and acknowledged the above instrument.

[Seal]

LORRAINE TOPPING

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires December 15, 1943.

[Endorsed]: Filed Dec 5 1942. Hugh L. Dickson, Referee. O. M. Cummins, Clerk. H. N.

[Endorsed]: No. 10594. United States Circuit Court of Appeals for the Ninth Circuit. Western Mesa Oil Corporation and El Segundo Oil Company, Appellants, vs. Edlou Company, et al., Landowners in El Segundo Community Lease No. Four-A; Edlou Company, et al., Landowners in El Segundo Community Lease No. Two-B; A. A. McCray, Trustee, for holders of Overriding Royalties in El Segundo Community Lease No. Four-A; A. A. McCray, Trustee for holders of overriding Royalties in El Segundo Community Lease No. Two-B; A. A. McCray, Wm. H. Ramsaur and F. R. C. Fenton, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed October 26, 1943.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

United States Circuit Court of Appeals  
for the Ninth Circuit

No. 10594

WESTERN MESA OIL CORPORATION and  
EL SEGUNDO OIL COMPANY,

Appellants,

vs.

EDLOU CORPORATION, et al,

Appellees.

STATEMENT OF POINTS UPON WHICH  
APPELLANTS INTEND TO RELY ON  
APPEAL

1. The order of the District Court is contrary to law.

2. The District Court erred in denying the petition for review of these Appellants and affirming the orders of the Referee in Bankruptcy which determined that landowners are entitled to the status of priority claimants in this case.

3. The District Court erred in holding that the Appellees had not waived their right to declare a forfeiture of the oil leases involved herein, despite the uncontradicted evidence that after defaults had taken place and with knowledge of such defaults, the landowners did nothing to declare a forfeiture, and accepted payment of royalties with full knowledge of the defaults.

4. The District Court erred in holding that there had been no waiver by the Appellees of their right

to declare a forfeiture of the leases in view of the uncontradicted evidence that the possession of the debtor corporation as well as the possession of the receiver, who succeeded the debtor corporation in the operation of the oil wells involved, at no time was challenged or threatened with any notice of intention to declare a forfeiture because of the non-payment of certain back royalties.

5. The District Court erred in holding that the Appellees, landowners, were entitled to priority over the other creditors under the plan of arrangement in these proceedings, despite the fact that before a forfeiture could be effected under the leases involved, it was necessary for the landowners to give a ninety day written notice of intention to declare a forfeiture, the record being undisputed that no such written notice was ever given to the debtor or to the receiver, who succeeded it, of any intention on the part of the landowners to declare the oil leases, or any of them, forfeited.

6. The District Court erred in holding that the Appellees had not waived their right to forfeiture and priority status in view of the fact that all of the Appellees herein, with full knowledge of the facts in the case, had filed claims herein as unsecured creditors.

7. The District Court erred in failing to hold that by virtue of their conduct in accepting payment of royalties from the debtor and then from the receiver, both prior to and after the commencement of the bankruptcy proceedings, and with full knowledge of the default of the debtor with respect

to certain royalty payments, the Appellees were estopped from thereafter asserting rights to priority and forfeiture.

8. The District Court erred in holding that the landowners had not waived their right to declare a forfeiture on the ground that the landowners had refused to acquiesce in the revised plan of arrangement if by doing so there would be a waiver of the right of forfeiture. There is no evidence of any kind in the record to support such finding by the District Court. The evidence will clearly show that the landowners received payments of royalties after their alleged right to forfeiture had accrued and had accepted such royalties without exercising the right to declare a forfeiture. There is no evidence in the record whatsoever which supports a finding by the District Court that there were any conditions attached to the acceptance of the royalty payments by the landowners.

9. The District Court erred in failing to recognize that the El Segundo Oil Company, as successor to the debtor, and the receiver, **and the** Western Mesa Oil Corporation, had the right to object to any claims on any grounds available to any of them under the law.

10. The District Court erred in holding and determining that the objections to the claims of landowners and overriding royalty holders were limited to the acts and conduct of the landowners and overriding royalty holders before the commencement of the bankruptcy proceedings and further erred in disregarding and rejecting the evidence of acts and

conduct of such claimants subsequent to the commencement of such proceedings which fully disclosed that after receiving full knowledge of the default which would give rise to the right to declare a forfeiture, said claimants, not only accepted payment of royalty, but also filed claims indicating no assertion of rights greater than that of unsecured creditors.

11. The District Court erred in affording the Appellees the status of priority despite the fact that the uncontradicted evidence reveals that the claimants at no time advised the debtor or the receiver of their intention to declare a forfeiture occasioned by default. That the debtor and the receiver were thus led to believe that any right to declare a forfeiture was being waived by the Appellees, and that the plan of arrangement was entered into by the debtor, the receiver, the Appellants herein and the creditors of this estate in reliance upon such waiver by the Appellees of the right to declare the oil leases herein involved as having been forfeited because of default in the payment of certain royalties.

12. The District Court erred in failing to distinguish between the evidence that was offered with respect to the Appellees, whose rights arose under Well No. 1, and the Appellees whose rights arose under Wells Nos. 2 and 4.

13. The District Court's order is erroneous because it failed to give effect to the fact that the El Segundo Oil Company as the successor to the debtor and the receiver, and the Western Mesa Oil Corporation, has all the right of its predecessors afore-

named to object to the claims of any creditors on any grounds as provided by law and as recognized by the plan of arrangement herein.

Dated this 8th day of November, 1943.

RAPHAEL DECHTER

By .....

Attorney for Appellants

[Endorsed]: Filed Nov. 10, 1943. Paul P. O'Brien, Clerk.